ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು

ಚುಕ್ಕೆ ಗುರುತಿಲ್ಲದ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ	1485
ಮಾನ್ಯ ಸದಸ್ಯರ ಹೆಸರು	ಶ್ರೀ ಎಸ್.ಎಲ್. ಭೋಜೇಗೌಡ (ಶಿಕ್ಷಕರ ಕ್ಷೇತ್ರ)
ಉತ್ತರಿಸಬೇಕಾದವರು	ಅಬಕಾರಿ ಸಚಿವರು
ಉತ್ತರಿಸಬೇಕಾದ ದಿನಾಂಕ	19-03-2020

ಕ್ರ.ಸಂ	ಪ್ರಶ್ನೆ	ಉತ್ತರ
ಅ)	ರಾಜ್ಯದಲ್ಲಿ ಎಷ್ಟು ಮದ್ಯದ ಅಂಗಡಿಗಳಿವೆ: ಹೊಸದಾಗಿ ಪರವಾನಗಿ ನೀಡುವ ಪ್ರಸ್ತಾವನೆ ಸರ್ಕಾರದ ಮುಂದಿದೆಯೇ: ಇದ್ದಲ್ಲಿ, ಎಷ್ಟು ಪರವಾನಗಿ ನೀಡಲಾಗುವುದು:	ರಾಜ್ಯದಲ್ಲಿ ಒಟ್ಟು 11136 ಸನ್ನದುಗಳು ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿವೆ. ಹೊಸದಾಗಿ ಸಿಎಲ್-2 ಮತ್ತು ಸಿಎಲ್-9 ಸನ್ನದು ಪರವಾನಗಿ ನೀಡುವುದನ್ನು ನಿರ್ಬಂಧಿಸಿದ್ದು ಇತರೆ ಸನ್ನದು ಪರವಾನಗಿಗಳ ಅರ್ಜಿಗಳನ್ನು ನಿಯಮಾನುಸಾರ ಪರಿಶೀಲಿಸಿ ನೀಡಲಾಗುತ್ತಿದೆ.
ಆ)	ಕಳೆದ 5 ವರ್ಷಗಳಲ್ಲಿ ಎಷ್ಟು ಮದ್ಯದ ಅಂಗಡಿಗಳಿಗೆ ಪರವಾನಗಿ ನೀಡಲಾಗಿದೆ (ವಿವರ ನೀಡುವುದು)	ಕಳೆದ 5 ವರ್ಷಗಳಲ್ಲಿ ನೀಡಿರುವ ಮದ್ಯ ಸನ್ನದುಗಳ ವಿವರವನ್ನು ಅನುಬಂಧ-1 ರಲ್ಲಿ ನೀಡಿದೆ.
ಇ)	ಮದ್ಯದ ಅಂಗಡಿಗಳಿಗೆ ಪರವಾನಗಿ ಪಡೆಯಲು ಇರುವ ಮಾನದಂಡಗಳೇನು: (ಆದೇಶ/ ಮಾರ್ಗಸೂಚಿ ನೀಡುವುದು)	ವಿವಿಧ ರೀತಿಯ ಪರವಾನಗಿಗಳನ್ನು ನೀಡುವಾಗ ಈ ಕೆಳಕಂಡ ನಿಯಮಗಳನ್ನು ಪಾಲಿಸಲಾಗುತ್ತಿದೆ. **1)ಸಿಎಲ್-2, ಸಿಎಲ್-4, ಸಿಎಲ್-6ಎ, ಸಿಎಲ್-7, ಸಿಎಲ್-8, ಸಿಎಲ್-9 ಸನ್ನದುಗಳು:** ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶಿ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳಲ್ಲಿ ಅಗತ್ಯವಾಗಿ ಕಲ್ಪಿಸಬೇಕಾಗಿರುವ ಮೂಲಭೂತ ಸೌಲಭ್ಯಗಳು ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಸನ್ನದುಗಳು (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967 ರಲ್ಲಿನ ನಿಯಮಗಳಡಿ ರೂಪಿಸಿರುವ ನಿರ್ಬಂಧಗಳು. ಅನುಬಂಧ-2 ರಲ್ಲಿ ವಿವರ ನೀಡಿದೆ.

		2)**ಸಿಎಲ್–4, ಸಿಎಲ್–6ಎ, ಸಿಎಲ್–7, ಸಿಎಲ್–9 ಸನ್ನದುಗಳಿಗೆ ಹೊಂದಿಕೊಂಡಿರುವ ಆರ್‌ವಿಬಿ ಸನ್ನದುಗಳು:** ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಚಿಲ್ಲರೆಯಾಗಿ ಬೀರ್‌ನ್ನು ಮಾರಾಟ ಮಾಡುವ ಗುತ್ತಿಗೆ) ನಿಯಮ, 1976 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳು ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಸನ್ನದುಗಳ ಅಗತ್ಯವಾಗಿ ಕಲ್ಪಿಸಬೇಕಾಗಿರುವ ಮೂಲಭೂತ ಸೌಲಭ್ಯಗಳು ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು 1967 ರಲ್ಲಿನ ನಿಯಮಗಳಡಿ ರೂಪಿಸಿರುವ ನಿರ್ಬಂಧಗಳು. ಅನುಬಂಧ–3 ರಲ್ಲಿ ವಿವರ ನೀಡಿದೆ. 3)**ಮೈಕ್ರೋಬ್ರಿವರಿ ಸನ್ನದುಗಳು:** ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರೀವರಿ) (ತಿದ್ದುಪಡಿ) ನಿಯಮಗಳು, 2010 ರಡಿಯಲ್ಲಿ ರೂಪಿತಭಾಗಿರುವ ನಿಯಮಗಳು ಮತ್ತು ಅಗತ್ಯವಾಗಿ ಕಲ್ಪಿಸಬೇಕಾಗಿರುವ ಮೂಲಭೂತ ಸೌಲಭ್ಯಗಳು ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967 ರಲ್ಲಿನ ನಿಯಮಗಳಡಿ ರೂಪಿಸಿರುವ ನಿರ್ಬಂಧಗಳು. ಅನುಬಂಧ–4 ರಲ್ಲಿ ವಿವರ ನೀಡಿದೆ. 4)**ವೈನ್ ಟಾವರಿನ್/ವೈನ್ ಬೋಟಿಕ್ ಸನ್ನದುಗಳು:** ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಚಿಲ್ಲರೆಯಾಗಿ ವೈನ್‌ನ್ನು ಮಾರಾಟ ಮಾಡುವ ಹಕ್ಕು) ನಿಯಮಗಳು, 2008 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳು, ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967 ರಲ್ಲಿನ ನಿಯಮಗಳಡಿ ರೂಪಿಸಿರುವ ನಿರ್ಬಂಧಗಳು. ಅನುಬಂಧ–5 ರಲ್ಲಿ ವಿವರ ನೀಡಿದೆ.

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		ಮುಂದುವರೆದು, ಈ ಎಲ್ಲಾ ಸನ್ನದುಗಳನ್ನು ಮಂಜೂರು ಮಾಡುವಾಗ ಅರ್ಜಿದಾರರಿಂದ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶೀ ಮತ್ತು ವಿದೇಶೀ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968 ರ ನಿಯಮ 4(ಬಿ) ಪ್ರಕಾರ ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರಿವರಿ) ನಿಯಮಗಳು 1967 ರ ನಿಯಮ 5(ಬಿ) ರನ್ವಯ ಅನರ್ಹರಾಗದಿರುವ ಬಗ್ಗೆ ಸ್ವಯಂಘೋಷಿತ ಮುಚ್ಚಳಿಕೆಯನ್ನು ಪಡೆಯಲಾಗುತ್ತಿದೆ.
ಈ)	ಎಂ.ಎಸ್.ಐ.ಎಲ್. ಅಂಗಡಿಗಳಿಗೆ ಪರವಾನಗಿ ನೀಡಲು ಇರುವ ಮಾನದಂಡ/ನಿಯಮ ಏನು:	**ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಅಂಗಡಿಗಳಿಗೆ ಪರವಾನಗಿ ನೀಡಲು ಅಬಕಾರಿ ಕಾಯ್ದೆಯಡಿ ಈ ಕೆಳಕಂಡ ಮಾನದಂಡಗಳು/ನಿಯಮಗಳಿರುತ್ತವೆ:** ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಮಳಿಗೆಗಳನ್ನು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಭಾರತೀಯ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯಗಳ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968 ರ ನಿಯಮ-3(11-ಸಿ), 8, 8(ಎ) ಹಾಗೂ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967ರ ನಿಯಮ-5ರ ಪ್ರಕಾರ ನಿಬಂಧನೆಗಳನ್ನು ಪಾಲಿಸಿ ಮಂಜೂರು ಮಾಡಲು ಪೂರ್ವಾನುಮತಿ ನೀಡಲಾಗುವುದು. ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಎಫ್ ಡಿ/07/ಇಎಫ್ಎಲ್/2008 ದಿನಾಂಕ: 03/07/2009 ರಲ್ಲಿ ಪ್ರತಿ ತಾಲ್ಲೂಕಿಗೆ ಕನಿಷ್ಠ 2 ಸನ್ನದುಗಳಂತೆ 352 ಸನ್ನದುಗಳು, ಜಿಲ್ಲಾ ಕೇಂದ್ರಸ್ಥಾನಕ್ಕೆ 2 ರಂತೆ 58 ಸನ್ನದುಗಳು ಹಾಗೂ ಎಂಎಸ್ಐಎಲ್ ಸಂಸ್ಥೆ ಪ್ರಾದೇಶಿಕ ಬೇಡಿಕೆ ಅಧ್ಯಯನ ಆಧರಿಸಿ ಕೋರಿಕೆ ಸಲ್ಲಿಸುವ ಸ್ಥಳಗಳಿಗೆ 53 ಸನ್ನದುಗಳಂತೆ ಒಟ್ಟು 463 ಸನ್ನದುಗಳನ್ನು ಹಂಚಿಕೆ ಮಾಡಲಾಗಿದೆ. ಮುಂದುವರೆದು, ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ:ಆಇ/15/ಇಎಫ್ಎಲ್/ 2015 ದಿ:23-09-2016 ರಲ್ಲಿ ರಾಜ್ಯದ 220 ವಿಧಾನ ಸಭಾ ಕ್ಷೇತ್ರಗಳಿಗೆ ಪ್ರತಿ ಕ್ಷೇತ್ರಕ್ಕೆ 4 ಸನ್ನದುಗಳಂತೆ ಒಟ್ಟು 880, ಯಾದಗಿರಿ ಜಿಲ್ಲೆಯ ನಾಲ್ಕೂ ವಿಧಾನ ಸಭಾ ಕ್ಷೇತ್ರಗಳಿಗೆ ತಲಾ 5 ರಂತೆ ಒಟ್ಟು 20, ಹೀಗೆ ರಾಜ್ಯದಲ್ಲಿ ಒಟ್ಟಾರೆ 900 ಸಿಎಲ್ 11-ಸಿ ಸನ್ನದುಗಳನ್ನು ಕೆಳಕಂಡ ಷರತ್ತುಗಳನ್ನು ವಿಧಿಸಿ ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಗೆ ಮಂಜೂರಾತಿ ನೀಡಲು ಸರ್ಕಾರವು ಅನುಮತಿ ನೀಡಿರುತ್ತದೆ.

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		1. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯೇ ತನ್ನ ವಾಣಿಜ್ಯ ಕಾರ್ಯಸಾಧ್ಯತೆಗೆ ಅನುಗುಣವಾಗಿ ಸನ್ನದುಗಳ ಸ್ಥಳವನ್ನು ನಿಗಧಿಗೊಳಿಸುವುದು. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯ ಅಧಿಕಾರಿಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯ್ದೆಯನ್ವಯ ಮದ್ಯದಂಗಡಿಗಳನ್ನು ತೆರೆಯುವ ನಿರ್ದಿಷ್ಟ ಸ್ಥಳಗಳನ್ನು ಗುರುತಿಸುವುದು. 2. ಈ ರೀತಿ ಗುರುತಿಸುವ ಸ್ಥಳಗಳು ಸರ್ಕಾರವು ತಿಳಿಸಿರುವ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರದ ವ್ಯಾಪ್ತಿಯಲ್ಲೇ ಇರಬೇಕು ಹಾಗೂ ನಿಗದಿಪಡಿಸಿರುವ ಸಂಖ್ಯೆಯ ಮಿತಿಯಲ್ಲೇ ಇರಬೇಕು. 3. ಒಂದು ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರ ವ್ಯಾಪ್ತಿಯಿಂದ ಮತ್ತೊಂದು ವಿಧಾನಸಭಾ ಕ್ಷೇತ ವ್ಯಾಪ್ತಿಗೆ ವರ್ಗಾವಣೆ ಆಗದಂತೆ ನೋಡಿಕೊಳ್ಳತಕ್ಕದ್ದು. 4. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯಿಂದ ಸನ್ನದು ಸ್ಥಳಗಳನ್ನು ಗುರುತಿಸಿ ಅಬಕಾರಿ ಇಲಾಖೆಗೆ ಸಲ್ಲಿಸಿದ ನಂತರ ಅಂತಹ ಸನ್ನದು ಸ್ಥಳಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967ರ ನಿಯಮ 5 ರನ್ವಯ ಆಕ್ಷೇಪಣಾ ರಹಿತ ಸ್ಥಳದಲ್ಲಿರುವಂತೆ ಹಾಗೂ ಇತರೇ ಸಂಬಂಧಿಸಿದ ನಿಯಮಗಳಿಗೆ ಪೂರಕವಾಗಿರುವುದನ್ನು ಸಂಬಂಧಪಟ್ಟ ಅಬಕಾರಿ ಉಪ ಆಯುಕ್ತರು ಖಚಿತಪಡಿಸಿಕೊಳ್ಳತಕ್ಕದ್ದು.
ಉ)	ಪ್ರಸ್ತುತ ವರ್ಷದಲ್ಲಿ ಎಷ್ಟು ಎಂ.ಎಸ್.ಐ.ಎಲ್. ಅಂಗಡಿಗಳಿಗೆ ಪರವಾನಗಿ ನೀಡಲಾಗಿದೆ ಹಾಗೂ ನೀಡಲು ಉದ್ದೇಶಿಸಲಾಗಿದೆ? (ವಿವರ ಒದಗಿಸುವುದು)	ಪ್ರಸ್ತುತ ಸಾಲಿನಲ್ಲಿ (ಅಂದರೆ 01ನೇ ಏಪ್ರಿಲ್–2019 ರಿಂದ 12ನೇ ಮಾರ್ಚ್ 2020 ರವರೆಗೆ) 72 ಸಿಎಲ್ 11–ಸಿ ಸನ್ನದುಗಳನ್ನು ಮಂಜೂರು ಮಾಡಲು ಪೂರ್ವಾನುಮತಿ ನೀಡಲಾಗಿರುತ್ತದೆ. (ವಿವರಗಳನ್ನು ಅನುಬಂಧ–6 ರಲ್ಲಿ ನೀಡಿದೆ). ತೆರೆಯಲು ಬಾಕಿ ಇರುವ ಒಟ್ಟು 481 ಮಳಿಗೆಗಳ ಸಂಬಂಧ ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯಿಂದ ಪ್ರಸ್ತಾವನೆಯು ಸ್ವೀಕೃತವಾಗಿರುವುದಿಲ್ಲ.

(ಎಚ್.ನಾಗೇಶ್)
ಅಬಕಾರಿ ಸಚಿವರು

ಆಇ 35 ಇ ಎಲ್ ಕ್ಯೂ 2020

ವಿಧಾನ ಪರಿಷತ್ತಿನ ಚುಕ್ಕೆ ಗುರುತಿಲ್ಲದ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ:1485ಕ್ಕೆ ಉತ್ತರದ ಅನುಬಂಧ-1 2015-16 ರಿಂದ 2019-20ನೇ ಸಾಲಿನ ಅಬಕಾರಿ ವರ್ಷದಲ್ಲಿ (ಜುಲೈಯಿಂದ ಜೂನ್) ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಎಲ್ಲಾ ಬಗೆಯ ಸನ್ನದುಗಳ ವಿವರ						
ಕ್ರ. ಸಂ	ಜಿಲ್ಲೆಗಳು	2015-16	2016-17	2017-18	2018-19	2019-20 (ಜನವರಿ ಅಂತ್ಯಕ್ಕೆ)
ಬೆಂಗಳೂರು ವಿಭಾಗ						
1(ಎ)	ಬೆಂಗಳೂರು ಪೂರ್ವ	900	932	940	980	999
1(ಬಿ)	ಬೆಂಗಳೂರು ಪಶ್ಚಿಮ	643	658	669	707	725
1(ಸಿ)	ಬೆಂಗಳೂರು ಉತ್ತರ	654	656	667	677	690
1(ಡಿ)	ಬೆಂಗಳೂರು ದಕ್ಷಿಣ	876	918	960	1005	1023
1	ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ	3073	3164	3236	3369	3437
2	ಬೆಂಗಳೂರು ಗ್ರಾಮಾಂತರ	171	174	183	201	213
3	ಚಿಕ್ಕಬಳ್ಳಾಪುರ	161	163	171	173	174
4	ಕೋಲಾರ	229	228	228	247	250

5	ರಾಮನಗರ	173	177	174	181	182
6	ತುಮಕೂರು	333	341	356	369	372
	ಒಟ್ಟು	4140	4247	4348	4540	4628
	ಬೆಳಗಾವಿ ವಿಭಾಗ					
1	ಬಾಗಲಕೋಟೆ	257	253	252	277	277
2	ಬೆಳಗಾವಿ	611	619	597	641	637
3	ವಿಜಯಪುರ	199	195	204	226	231
4	ಧಾರವಾಡ	254	262	277	281	275
5	ಹಾವೇರಿ	154	155	159	162	165
	ಒಟ್ಟು	1475	1484	1489	1587	1585
	ಕಲಬುರಗಿ ವಿಭಾಗ					
1	ಬೀದರ್	129	134	146	160	165
2	ಕಲಬುರಗಿ	237	238	252	273	283

3	ರಾಯಚೂರು	214	213	218	219	226
4	ಯಾದಗಿರಿ	93	92	91	98	102
	ಒಟ್ಟು	673	677	707	750	776
	ಹೊಸಪೇಟೆ ವಿಭಾಗ					
1	ಬಳ್ಳಾರಿ	251	269	282	291	325
2	ಚಿತ್ರದುರ್ಗ	223	224	225	231	233
3	ದಾವಣಗೆರೆ	269	272	281	287	259
4	ಗದಗ	134	134	136	139	143
5	ಕೊಪ್ಪಳ	138	139	138	146	150
	ಒಟ್ಟು	1015	1038	1062	1094	1110
	ಮಂಗಳೂರು ವಿಭಾಗ					
1	**ದಕ್ಷಿಣ ಕನ್ನಡ**	**464**	**469**	**464**	**487**	**498**
2	**ಕೊಡಗು**	**217**	**218**	**210**	**223**	**225**

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3	ಶಿವಮೊಗ್ಗ	228	230	240	255	258
4	ಉಡುಪಿ	367	372	364	399	398
5	ಉತ್ತರ ಕನ್ನಡ	157	156	147	160	159
ಒಟ್ಟು		1433	1445	1425	1524	1538
ಮೈಸೂರು ವಿಭಾಗ						
1	ಚಾಮರಾಜನಗರ	121	119	114	121	126
2	ಚಿಕ್ಕಮಗಳೂರು	199	197	203	221	224
3	ಹಾಸನ	284	299	302	310	334
4	ಮಂಡ್ಯ	231	238	248	258	261
5	ಮೈಸೂರು	489	496	481	544	554
ಒಟ್ಟು		1324	1349	1348	1454	1499
ರಾಜ್ಯದ ಒಟ್ಟು		10060	10240	10379	10949	11136

ಅನುಬಂಧ-2

ಅನುಬಂಧ-02

[1]THE KARNATAKA EXCISE (GENERAL CONDITIONS OF LICENCES) RULES, 1967

(As amended by GSR 171, dated 6-5-1969; GSR 384, dated 4-11-1969; GSR 432, dated 12-12-1969; GSR 107, dated 18-3-1970; GSR 359, dated 3-12-1975; GSR 50, dated 12-2-1976; GSR 223, dated 27-7-1976; GSR 141, dated 5-5-1977; GSR 215, dated 17-7-1978; GSR 250, dated 24-8-1979; GSR 142, dated 24-5-1980; GSR 282, dated 23-9-1980; GSR 143, dated 25-6-1983; GSR 99, dated 30-3-1985; GSR 16, dated 6-2-1990; GSR 26, dated 5-2-1992; GSR 4, dated 8-1-1993; GSR 127, dated 21-6-1993; GSR 24, dated 6-12-1993; Notification No. FD 22 PES 93(ii), dated 9-5-1994; GSR 119, dated 19-7-1994; GSR 132, dated 12-8-1994; GSR 156, dated 22-9-1994; GSR 184, dated 28-11-1994; GSR 64, dated 23-5-1995; GSR 58, dated 17-4-1996 Notification Nos. FD 5 PES 2000, date 28-4-2000; FD 9 PES 99, dated 27-11-2000; FD 28 PES 2001, dated 8-1-2002; FD 27 PES 2001, dated 19-2-2002; FD 8 PES 2002, dated 6-5-2002; FD 6 PES 2003, dated 30-6-2003; FD 10 PES 96(II), dated 6-4-2004; FD 25 PES 2003, dated 20-6-2006; FD 03 PES 2007(2), dated 25-5-2007; FD 7 PES 2008(II), dated 15-1-2009; FD 11 PES 2009, dated 9-2-2010; FD 05 PES 2013(1), dated 28-2-2013; FD 03 PES 2014(V), dated 28-2-2014; FD 08 PES 2011, dated 6-8-2014; FD 08 PES 2014, dated 21-11-2014 **and FD 16 PES 2015, dated 4-11-2016**.)

GSR 469.—In exercise of the powers conferred by Section 71 of the Karntaka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules, the draft of the same having been previously published, as required by sub-section (1) of Section 71 of the said Act, in Notification GSR No. 434 in Part IV, Section 2-C(i) of the Karnataka Gazette, Extraordinary, dated 30th September, 1967, namely.—

1. Title, extent and commencement.—These Rules may be called the **[2][Karnataka Excise (General Conditions of Licences)] Rules, 1967.**

(2) They shall extend to all the areas of State of Karnataka, where the Karnataka Excise Act, 1965, is in force.

(3) They shall come into force at once.

2. Application.—These rules shall apply to all licences issued under the Karnataka Excise Act, 1965 for sale of liquors and every such licence shall be deemed to include the conditions prescribed by these rules as general conditions.

[3][**3. Definitions.**—In these rules unless the context otherwise requires.—

(1) **"Educational Institution"** means a Pre-Primary, Primary or Secondary School [4][or college or institution] owned or managed

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1. Published in the Karnataka Gazette, Extraordinary, dated 19-10-1967, vide Notification No. HD 76, EFL 67, dated 19-10-1967.
2. Substituted for the words and brackets "Karnataka Excise Licences (General Conditions)" by Notification No. FD 16 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016
3. Rule 3 substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
4. Inserted by Notification No. FD 16 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016

or recognised by any local authority, State or Central Government or any College affiliated to or established or managed by any University established by law.

(2) **"Licensee"** means a person to whom a licence to sell Liquor is granted.

(3) **"Religious Institution"** means a temple, mutt, mosque, church, synagogue, agiary or other place of public religious worship which is as the case may be, established or managed or owned by a public trust, the Religious and Charitable Endowments Commissioner or a Society registered under the Societies Registration Act or Wakf Board Act.

(4) **"Shop"** means the licenced premises where liquor is sold].

4. Commencement of business.—Licensee shall commence his business on the 1st July or such date as may be notified by the Excise Commissioner and shall keep open on every day during such hours as may be fixed by the Excise Commissioner.

Explanation.—Any shop shall be deemed to be open when in the case of liquor shop so much of stock is always kept in the shop so as to meet the requirements for a week and in case of toddy shops to the extent of daily requirements.

[1][**4-A. Closure of shops on certain occasions.**—(i) A licensee may after intimation to the Excise Inspector of the jurisdictional range, close the shop on the following occasions, namely.—

(a) on the day of marriage in his family; or

(b) on the day of the occurrence of a death or accident on his family; and

(ii) A licensee may with the prior permission in writing of the Deputy Commissioner of Excise close the shop for renovation or repair of licensed premises for a period not exceeding fifteen days in an excise year.]

[2][**5. Restriction in respect of location of shops.**—(1) No licence for sale of liquor shall be granted to a liquor shop or premises selected within a distance of 100 metres from any religious or educational institution or Hospital or any Office of the State Government or Central Government or Local Authorities or in a residential locality, where the inhabitants are predominantly belonging to Scheduled Castes or Scheduled Tribes or within a distance of 220 metres from the middle of the State Highways or National Highways:

[3][Provided that where a shop is sanctioned to a village the population of which is less than two thousand five hundred, such shop shall be located outside the residential locality of the village.]

[4][**Explanation.**—[5][(1) For the purpose of this rule "National Highway" or "State Highway" shall not include such parts of the National Highway or

1. Rule 4-A substituted by Notification No. FD 16 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016
2. Rule 5 substituted by GSR 127, dated 21-6-1993, w.e.f. 21-6-1993.
3. Proviso inserted by GSR 24, dated 6-12-1993, w.e.f. 6-12-1993.
4. Explanation to sub-rule (1) inserted by GSR 119, dated 19-7-1994, w.e.f. 19-7-1994.
5. Explanation to sub-rule (1) renumbered as Explanation (1) by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.

State Highway as are situated within the limits of a Municipal Corporation, City or Town Municipal Council, or such other authority having a population of twenty thousand or more.]

[1][**Explanation.**—(2) For the purpose of this rule, the expression "Hospital" means any Government Hospital, Primary Health Centre or Primary Health Unit and includes a Private Hospital or a Private Nursing Home which has the facility of a minimum of thirty beds for treatment of inpatients.

Explanation.—(3) For the purpose of this rule the expression "Office of the State Government or Central Government or Local Authority" means and includes any State or Central Government Office headed by Group 'A' or 'B' grade officers and the main Administrative Offices of Local Bodies like City Corporation, City Municipal Council, Town Municipal Council, Town Panchayat, Zilla Panchayat, Taluk panchayat and Grama Panchayat and such other offices of the State Government, Central Government or Local Authorities as may be specified by the Government from time to time.]

(2) The Deputy Commissioner of Excise shall after making such enquiry as he deems fit approve the premises of liquor shop so selected and thereafter the description of the premises of liquor shop shall be entered in the Licence to be issued:

Provided that the Deputy Commissioner of Excise may, with the prior approval of the Excise Commissioner and for reasons to be recorded in writing, permit the location of any shop within a distance of 100 metres, but not less than 50 metres from the institutions, hospital, office or locality specified in sub-rule (1) within the City Municipality or City Corporation limits.

[2][Provided further that the Deputy Commissioner of Excise may grant licence to locate any liquor shop in a premises situated within a distance of 220 metres from the middle of a State Highway or a National Highway if such premises is located in a predominantly inhabited area, or extension of a town, village, or area the population of which is more than two thousand five hundred and where a licence to locate shop in such premises was granted or was existing during the period commencing from 1st July, 1992 and ending on [3][30th June, 1994.]]

[4][(2-A) Notwithstanding anything, contained in sub-rules (1) and (2) the Deputy Commissioner of Excise may with a view to secure, convenience, morality, tranquility, decency or safety of the public or for any other reason, reject the application for licence to a liquor shop or premises after recording the reasons therefor.]

(3) For the purpose of this rule while measuring the distance specified in this rule, the distance shall be measured along the nearest path by which the pedestrian ordinarily reaches, adopting the mid-point of the entrance of the shop and the mid-point of the nearest gate of the institution, hospital or office

1. Explanations (2) and (3) inserted by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.
2. Second proviso inserted by GSR 119, dated 19-7-1994, w.e.f. 19-7-1994.
3. Read for the words and figures "30th June, 1992." by GSR 132, dated 12-8-1994.
4. Sub-rule (2-A) inserted by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.

which in any case, could not be claimed as a matter of right by the petitioner. – *S. Gopal v The Commissioner of Excise in Karnataka, Bengaluru and Another,* **2016(4) Kar. L.J. 647B.**

R. 5 — Whether the amended Rule 5 covers CL-9 licences also?

Shivaraj Patil, J., Held.—Merely because the liquor is sold in a refreshment room or in the premises covered by CL-9 licence, it cannot be said that amended Rule 5 is not applicable to CL-9 licences, in view of the express statement made in Rule 2 that these rules are applicable to all licences issued under the Act and that every such licence shall be deemed to include the conditions prescribed by these rules as general conditions. In addition to the rules applicable to a particular kind of licence, the event of sale of liquor in whatever premises pertaining to a licence issued under the Act attracts the impugned Rule 5. Hence, I conclude that the amended Rule 5 is applicable to CL-9 licences also. — *B.N. Raghuram and Others v State of Karnataka and Others,* **1993(3) Kar. L.J. 235E.**

R. 5, As amended — Object to contain proliferation of activity — Making liquor inaccessible on the Highways except those areas which fall within the Municipal areas — Not arbitrary or unreasonable — Difference noticed between areas not irrational.

S. Rajendra Babu and B.K. Somasekhara, JJ., Held.—The object of the impugned rule, it appears to us is that the activity of selling liquor in certain areas is sought to be eliminated, thus making liquor inaccessible in such areas. Admittedly the activity of selling liquor is obnoxious or deleterious to the health of the people. In fact Article 47 of the Constitution enjoins on the State to introduce prohibition as State Policy. Indeed, if, introduction of prohibition which was dear to the Father of the Nation is not possible either for administrative or financial reasons, the only alternative sofaras the State is concerned is to contain the proliferation of the activity. The amended rule partially promotes that policy by making liquor inaccessible on the Highways except those areas which fall within the Municipal areas. The policy as such cannot be found fault with. When prohibition itself cannot be introduced for various reasons, the only other alternative for the State is to contain or regulate the trade thereto. If the proclivity to drink is contained, at any rate in certain areas, the tendency thereto is reduced to some extent. May be the manner in which the reasons are set forth in the statement of objections may not be very articulate. But the effect of the rule is to that effect. If this is the objective, we cannot say the action on the part of the State or the policy thereto is either arbitrary or unreasonable. If there is a shop within the Municipal limits and if such shop is allowed to sell liquor and, if only shops outside the Municipal area are sought to be eliminated, we do not find that there is any unreasonable classification for one falls within the Municipal area or the other falls outside the town. Therefore, classification cannot be stated to be bad, for it is based on discernible grounds. Highway specified in the Schedule means except such parts thereof as are situated within any Municipal areas, is hereby declared to be a National Highway and, in the definition, it is made clear that any 'Municipal area' means with a population

of 20,000 or more, the control or management of which is entrusted to Corporation or a Municipal Council or a Town Area Council, a Town Committee or any other authority. The definition of the areas falling within the Municipal area and outside is recognised in the National Highways Act also. Similar is the position even in regard to nationalisation of routes arising under the Motor Vehicles Act, wherein the operation of any transport vehicle on a route is nationalised, exception is made to the areas falling within the Municipality or a local authority. In that way, it is accepted in all enactments the difference between the areas falling within the Municipal area or outside the Municipal area, even though the route or road is a Highway. Therefore, the difference noticed by the Department is not irrational. — *Karnataka Wine Merchants' Association (R), Bangalore and Others v State of Karnataka and Others,* **1994(2) Kar. L.J. 570 (DB).**

Rule 5(1) — Bar — Renewal of licence in Form CL-9 to run — Denial of renewal on ground that bar is situated within 20 metres from city central library — Order of rejection of application on ground which is not one enumerated in Rule, is not sustainable — Library does not come within definition of "Office" either of State or of Central Government.

G.C. Bharuka, J., Held: Under the rules, location of a public library within the distance enumerated therein cannot be a ground for not granting the licence. Such libraries cannot even be construed by any stretch of imagination to be an office either of the Central Government or State Government. . . . Even according to the definition, central library cannot be deemed to be the 'Office' either of the State Government or the Central Government. . . . . In the said view of the matter, the impugned order cannot be sustained as it is founded on a ground which is not envisaged under the provisions of the Act and the Rules. – *Smt. A.V. Nirmala v State of Karnataka and Others,* **2000(1) Kar. L.J. Sh. N. 21.**

Rule 5(1) — Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Second Amendment) Rules, 2000, Rule 5-A — Bar licence — Renewal of — Rejection of application for renewal on ground that school is likely to be opened in future within distance of 100 metres from premises licensed to run bar — Rejection of application on such ground is to be held bad in law — Licence has to be renewed if condition regarding location of licensed premises is satisfied on date of renewal.

It is not in dispute the applications filed by the petitioners have to be considered by the authorities based on the location of the premises as on the date of considering renewal or granting licence afresh. Just because a person is going to construct a school building or a school will be inaugurated in the near future that cannot be a ground for the authorities to reject in anticipation of opening of a school. Either the Excise Act or the Rules do not provide for rejection of the renewal application on the ground that in the near future a school will be opened. In the instant case, the authorities have held that the Gnana Deepika School building is under progress and therefore the renewal application of the petitioner has been rejected. If the theory of the respondent

is adopted, it will be difficult in the future to grant any licence in favour of any person. A rival businessman may object on the ground that either a school or a temple will be established within the prohibited distance from the shop in question by applying the above principle all such applications have to be rejected. Under the circumstances, the reasonings given by the authorities to reject the renewal of the petitioners are also bad in law. Therefore, in anticipation that a school building will be opened in the future cannot be a ground for the authorities to reject the renewal applications of the petitioners. — *S.N. Chinappa v State of Karnataka and Others,* **2001(5) Kar. L.J. 234.**

Rule 5(1) and 5(2) — Licence to vend liquor — Prohibition against locating liquor shop within 100 mts. of any religious, educational institution or hospital — Which is 'an objectionable place' — Public nuisance and maintenance of public law — Impugned order of Deputy Commissioner of Excise to petitioner to another location — Legality of — Held, contention, a relaxation was given by authorities earlier at the time of renewal of licence — Renewal of licence is a matter of right — Not sustainable — Relaxations given did not also give any reasons — Further, three hospitals are located within the vicinity of 100 mtrs. from the liquor shop — They have raised complaints against it — Further irrespective of alternative remedy under Section 61 of the Karnataka Excise Act, 1965 — On merits, no fault found in impugned order — Petition dismissed. — — *S. Gopal v The Commissioner of Excise in Karnataka, Bengaluru and Another,* **2016(4) Kar. L.J. 647A.**

Rule 5(1) and 5(3) — Constitution of India, Articles 47 and 226 — Grant of liquor licence — Conditions for — Information given by applicant for licence must undergo and satisfy "strict scrutiny" test — State Government should not treat its right to part with its privilege of vending liquors only as means of earning more and more revenue — Fulfillment of constitutional obligation is more important than earning revenue.

S.R. Bannurmath and Subhash B. Adi, JJ., Held: The authority has not at all taken the measurement in compliance with Rule 5 of the Rules. The Revenue Inspector has utterly failed to discharge his function in terms of Rule 5. In a casual way, he draws a mahazar by making alleged enquiry. He does not take the actual measurement, he accepts the sketch given by the applicant. He does not make verification of the measurement in pursuance of the sketch submitted by the applicant. The Excise Inspector or the authority, which is required to verify the spot cannot mechanically submit a report. He owes a duty to take exact measurement from the center point where the shop is sought to be established to find out as to whether there are any objectionable institutions within the radius of 100 metres from the said point. From the records it appears that, with an intention to grant licence or permission, the report is submitted..... The Court direct the respondent 1 to take necessary action against respondents 2 and 3 for dereliction of their duties in granting permission to respondent 4 in utter violation of Rule 5 of the Rules. The Court direct the State to take steps to implement Rule 5 in its true spirit. — *Prof. G. Shainesh and Others v State of Karnataka And Others,* **2009(1) Kar. L.J. 287B (DB).**

Rule 5(1) and 5(3) — Constitution of India, Articles 47 and 226 — Interpretation of statutes — Rule prohibiting location of liquor shops within distance of 100 metres from educational or religious institutions, hospitals, offices of Government, residential locality, *etc.* — Object of — Object is to make liquor inaccessible to people in area — Rule providing for determination of prohibited distance by taking measurement along "nearest path by which pedestrian ordinarily reaches" must be interpreted in furtherance of object of Rule, and not with object to find excuse to grant licence to earn revenue, but to find way to impose restriction within framework of rule.

S.R. Bannurmath and Subhash B. Adi, JJ., Held: 'Ordinarily' means regular, usual, normal, common, often recurring, according to established order, settled, customary and reasonable. Thus, the meaning of 'ordinarily' cannot be extended to mean only the designated road or pathway and not access otherwise available to the consumer of liquor shop. If the object is to restrict the consumer within 100 metres of the educational institution and to make it inaccessible in certain areas, the rule has to be interpreted in furtherance of the said object. Rule 5 is framed in furtherance with the object under Article 47 of the Constitution of India, it cannot be said that the measurement has to be taken along with footpath then to a zebra cross designated for crossing and again to footpath and shop. If otherwise there is a way to reach the liquor shop and it is accessible to the consumer, it cannot be ignored that such a way is available for consumer, who can ordinarily reach. It is unacceptable that the consumer of liquor will have to go to liquor shop according to traffic signal. — *Prof. G. Shainesh and Others v State of Karnataka And Others,* 2009(1) **Kar. L.J. 287B (DB).**

Rule 5(1) and 5(3) — Karnataka Traffic Control Act, 1960, Section 14(2)(r) — Karnataka Traffic Control Rules, 1979, Rule 6 — Karnataka Traffic Control (Regulation of Traffic on Highways) Rules, 1979, Rule 5(4) and 5(6) — Karnataka Police Act, 1963, Section 69(a) — Constitution of India, Article 226 — Location of liquor shops — Restriction regarding — Rule prohibiting liquor shops within distance of 100 metres from educational or religious institutions, hospitals, *etc.* — Distance prohibited to be determined by taking measurement along "nearest path by which pedestrian ordinarily reaches", and not zig-zag path in conformity with Traffic Rules which requires pedestrian to walk on footpath and cross road only at point thereon at which pedestrian crossing is provided — Where offending liquor shop is within radius of 50 metres from educational institution from which it can be reached by pedestrian by just crossing road through opening in its median without requiring to walk down footpath till pedestrian crossing, and distance required to be walked to reach liquor shop from educational institution is just 84 metres as per report of Commissioner appointed by Court, liquor shop, held, is directly hit by prohibition and its location cannot be justified on ground that distance along zig-zag path is more than 100 metres — *Mandamus* lies to authority concerned to shift liquor shop beyond radius of 100 metres from central point of educational institution.

S.R. Bannurmath and Subhash B. Adi, JJ., Held: Rule 5, sub-rule (1) mandates that, no licence shall be granted for sale of liquor within a distance of 100 metres from religious, educational, hospitals, office of the State or Central Government or local authorities or residential locality where the inhabitants are predominantly belonging to Scheduled Castes or Scheduled Tribes. In order to ascertain the distance, sub-rule (3) specifies that the distance shall be measured along the nearest path by which the pedestrian ordinarily reaches. . . . . . The argument that, measurement has to be taken along with the footpath till it reaches the zebra crossing and from there again the measurement is to be taken to the other side of the footpath and to reach the shop is not acceptable. The object behind the provisions of Rule 5 is to restrict the liquor shop in certain areas. The object of the Rule is not to find an excuse to grant licence, but to find a way how best the restriction can be imposed within the framework of Rule 5 of the Rules. . . . . . Even the authorities have understood that the measurement is by means of radius from the center point of the shop and not the zigzag measurement along with footpath, zebra crossing *etc.* In this case, just across the gate of the IIMB, there is an opening of median and on the other side, there is a wine shop and if straight measurement is taken, it is less than 50 metres, if the measurement is taken as available pathway *i.e.,* at the opening, it is 84 metres. . . . If the radius is the criteria, then irrespective as to the existing road or otherwise, the prohibition or restriction should be imposed in opening of liquor shop within the radius of 100 metres from the center point of the educational institution or religious institution, hospitals or State or Central Government offices, *etc.,* as contemplated under Rule 5 of the Rules. . . . . It is clear that, the authority empowered to grant licence or permission have not discharged their function in true spirit of the Rule 5 of the Rules. The mandate of the Rule 5 is not observed in its true spirit and in a very casual way the permission is granted. It is also noticed that the licences to liquor shops are given in utter disregard to the intention of Article 47 of the Constitution and restriction imposed under the Rules. The licences are granted by circumventing the rules to the advantage of the shop owner. By this means, the State instead of protecting the interest of public in the matter of public health, security impact on the society has allowed liquor vending as if it is fundamental right to vend liquor. The time has come for the State to take serious look in implementing the law relating to vending of intoxicating drink and drugs to make a safe and healthy society. — *Prof. G. Shainesh and Others v State of Karnataka And Others,* **2009(1) Kar. L.J. 287A (DB).**

Rule 5(4) — Licensed premises — Order to shift — Giving of opportunity to licensee of being heard is necessary before directing him to shift his premises.

The respondents have not provided reasonable opportunity to the petitioners as required under sub- rule (4) of Rule 5 of the Karnataka Excise Licence (General Conditions) Rules, 1967. So, under these circumstances, before calling upon the petitioners to shift their business premises to any other premises, the respondents have to give an opportunity for the petitioners and only after hearing the petitioners the respondents can pass such an order. Under these circumstances, the matter has to be reconsidered by the licensing authority after affording an opportunity to the petitioners and till such time the respondents shall have no right to interfere with the business of the petitioners as the respondents have collected licence fee for the whole of the year. — *S.N. Chinappa v State of Karnataka and Others,* 2001(5) **Kar. L.J. 234.**

Rule 5(4) — Petitioner is holder of CL-2 licence — To run a Wine Store — Respondent 3-Chief Officer raised objection — Store is close to a mosque — Held, impugned communication at Annexure-K is stayed as no notice was issued to petitioner, accordingly petitioner shall appear before respondent 2-the Deputy Commissioner of Excise.

Ajit J. Gunjal, J., Held: The petitioner was issued with a CL-2 licence to run a Wine Store. Suffice it to say objections were raised by respondent 3 on the ground that the said wine store is close to a Mosque. Aggrieved by the same the petitioner is before this Court. The only grievance of the petitioner is that there is a non-compliance of Rule 5(4) of the Karnataka Excise Licences (General Conditions) Rules, 1967. . . . . . Indeed, a perusal of Annexure-K discloses that such an exercise has not been done inasmuch as before passing the impugned communication at Annexure-K no notice was issued and the petitioner was not heard. Till the entire proceedings are concluded Annexure-K shall not be given effect to. — *Popular Wines, Kushalanagar, Madikeri Taluk v The Excise Commissioner in Karnataka, Bangalore and Others,* **2013(2) Kar. L.J. 184.**

6. Sign Boards, *etc.*—Every licensee shall affix a sign board in a conspicuous place of the shop showing the nature of the shop, number of licence and retail price in such language as may be understood by the majority of the residents in the locality.

[1][**7. Entrance and Exit.**—There shall be not more than one and the same entrance and exit for the CL-2 shop and CL-11 (C) shop.]

8. Mixture Prohibited.—The licensee shall not mix any material injurious to the health or mix anything to decrease or increase the strength of the liquor or its intoxicating power.

9. Employment of Women and Certain others prohibited.—(1) The licensee shall not employ any women [2][xxx].

(2) He shall not employ any person who has been convicted.

(3) The licensee shall not employ, in any capacity, a person who is below the age of 18 years or a person who is suffering from any contagious disease.

1. Rule 7 substituted by Notification No. FD 08 PES 2011, dated 6-8-2014, w.e.f. 6-8-2014
2. The words "other than his family member" omitted by GSR 171, dated 6-5-1969, w.e.f. 15-5-1969.

CASE LAW

Rule 9 — Employment of women — Prohibition of — Rule must be understood as forbidding women being employed to serve liquor to customers — Rule must be interpreted strictly and must not be allowed to affect right of employer or employee beyond what is absolutely essential — Rule cannot be pressed into service to prevent employment of women artists in restaurants for purpose of singing or playing musical instruments.

Tirath S. Thakur, J., Held: The Rule, is in three parts, one dealing with employment of woman, the other employment of convicts and the third employment of any person who is below the age of 18 years or who is suffering from any contagious disease. Sub-rules (1) and (2) simply provide that the licensee shall not employ any woman or any person who has been convicted. If the intention was to forbid the licensee from employing women or convicts also "in any capacity" nothing prevented it from making a provision to that effect as indeed it has done in the case of minors and persons suffering from any contagious disease. This would imply that in so far as women are concerned, their employment is forbidden but not in every capacity. Such employment may in certain capacities and situations, be permissible. Employment of women under Rule 9 of the General Conditions Rules, is forbidden only in so far as the sale and service of liquor is concerned. There may be other capacities in which a woman may be employed by the licensee, which capacities may be wholly unconnected with the actual service of liquor to the customers. Rule 9 imposes a restriction which must be interpreted strictly so that the same does not operate to affect the right of the employer or the employee beyond what is absolutely essential. Rule 9 must be understood to forbid the licensee from employing women with a view to serving liquor to the customers or handling liquor at any stage. The intention of the rule-making authority obviously is to prevent the licensees from engaging women for promoting the sale of liquor. That purpose can be served well even when the provision is understood in a restricted sense. Suffice it to say that Rule 9 does not forbid employment of a female artist whether for instrumental or vocal music so long as any such artist is not employed to serve or handle liquor for the customers visiting any such place of public entertainment. — *R. Shankaregouda v The Commissioner of Police, Bangalore,* **1998(3) Kar. L.J. 494E.**

Rule 9 — Karnataka Police Act, 1963, Section 31 — Liquor shop — Facilities provided like — Live music — Songs by men and women — Police tried to control — Petitioner contends that Police have no powers except Excise Officials — Provisions of both the Acts, Rules and Regulations discussed at length — Finally, held, Police are having powers to enter premises to control the business being carried by petitioner thus writ petition is dismissed.

S. Abdul Nazeer, J., Held: The petitioner is a CL-9 licence holder under the Karnataka Excise Act, 1965. She has been carrying on the business at No. 45/1, Mission Road, Bangalore. Under the said licence, she is authorised to provide liquor along with refreshment or food for the customers. The contention of the petitioner is that her business is under the control of Excise Department

created under the provisions of the Excise Act. It is further contended that she has been carrying on the business within the territorial limits of the local police. Respondents are periodically visiting her business premises and are exercising control in their own way though they are not vested with such power and jurisdiction in view of the bar contained under Section 51 of the Act and the corresponding Rules, namely, Karnataka Excise (Entry, Inspection and Investigation Authorisation) Rules, 1967. The respondents tried to interfere with the business of the petitioner with regard to the facilities provided like live music, songs sung by men and women along with musical instruments...... The licensing authority or the officer so authorised may, if need be, seek assistance of any other authority or authorities during such inspection. Therefore, once the place in question is a public place, the Police have access as a matter of right to enter the premises..... He concludes by submitting that having regard to the different provisions of the Excise Act and the Police Act, petitioner is not right in contending that the Police have no power or authority to enter and inspect the business premises of the petitioner...... The empowerment under Section 51 is necessary only for the purpose mentioned in clauses (a) to (c) and for the purpose of Section 54, the Police Officer has authority to enter any place as defined under the Act. A conjoint reading of these provisions would clearly indicate that the Police Officer is authorised to enter the premises of the petitioner holding CL-9 licence and carrying on the business of bar and restaurant....... It is also relevant to notice some of the provisions of the Karnataka Police Act, 1963. The Police Act has been enacted to provide uniform law for regulation of police force in the State of Karnataka, maintenance of public order, for prevention of allied matters and for certain other purposes...... In the present case, the question is whether the police have power or authority to enter the premises of the petitioner where she has been carrying on the business having regard to the different provisions of the Excise Act and the Police Act...... There is no merit in this writ petition. It is accordingly dismissed. — *Smt. Manjula v The Commissioner of Police, Bangalore City, Bangalore and Another,* **2013(2) Kar. L.J. 369.**

10. Liquor not to be sold to certain persons, *etc.*—(1) No liquor shall be sold or otherwise given to the following persons, namely.—

(a) insane persons;

(b) persons known or believed to be drunk;

(c) persons known or suspected to be about to take part in a riot or disturbance of public peace or any other crime;

(d) Excise Officials, Police Officers, Railway Servants and Motor Bus Chauffeur, on duty, or in uniform;

(e) persons below the age of [1][twenty-one years.]

1. Substituted for the figures and words "18 years" by GSR 223, dated 27-7-1976, .w.e.f. 5-8-1976.

(2) No quantity of liquor shall be allowed to be taken out of the shop except to the extent permitted by the rules under Karnataka Excise Act, 1965.

CASE LAW

Rule 10(1)(e) — Criminal Procedure Code, 1973, Sections 482 and 2(c) — Excise offence — Criminal proceedings initiated against excise licensee for — Sale of liquor to persons below age of 21 years — Where allegations make out ingredients of offence, proceedings cannot be quashed merely on ground that offence is non-cognizable — Offence, held is cognizable.

In view of the clear provisions of Section 52 of the Excise Act, the offence comes within the definition of Section 2(c) of the Code of Criminal Procedure. . . . . Under the circumstances, there is no merit in the petition. Accordingly, the petition is dismissed. — *C.P. Tayal and Others v State by Ashoknagar Police Station, Bangalore,* **2001(4) Kar. L.J. 601(B).**

[1][**10-A. All shops shall remain closed on Gandhi Jayanthi Day.**—All shops shall remain closed throughout the second day of October of every year.

Explanation.—For the purpose of this rule "throughout the second day of October of every year" means the period of twenty-four hours commencing from twelve mid-night between the first day and second day of the October of every year].

[2][**10-B. Prohibition of sale of liquor during election and counting days** ***etc.***—In order to comply with the directions of the Election Commission of India or State Election Commission for banning sale or supply of liquor and intoxicants during election to the House of the People, State Legislative Assembly, Zilla Panchayat, Taluk Panchayat, Gram Panchayat and Urban Local Bodies, the District Magistrate may by notice in writing to the licensee require that any shop in which any liquor is sold or supplied shall be closed at such times and for such period as the Election Commission concerned may consider necessary for conduct of peaceful, fair and free elections. The licensee shall not be entitled to any compensation for such closure.]

[3][**11. Certain Acts not permitted.**—(1) No gambling, dance, gathering, feast or any kind of entertainment or unlawful act shall be permitted in such premises.

(2) The licensee shall sell liquor only in the approved shop and shall not sell in such premises any article other than such article and except to the extent permissible in accordance with the terms of the licence].

CASE LAW

Rule 11 — Entertainment — Prohibition of, in place where sale of liquor is licensed — Prohibition is of only unlawful entertainment — Rule does not forbid live-band or music in restaurant licensed to sell liquor, food and refreshments.

1. Rule 10-A inserted by GSR 282, dated 23-9-1980, w.e.f. 23-9-1980.
2. Rule 10-B substituted by Notification No. FD 16 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016
3. Rule 11 substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

Tirath Singh Thakur, J., Held: The words used in Rule 11(1) of Excise Licences (General Conditions) Rules, 1967, are "any kind of entertainment" and not "any kind of amusement". The term "Entertainment" has not been defined either in the Excise Act or in the Rules mentioned above. It has not been defined even in Police Act, or the Amusement Licensing Order issued under the same. The expression "Entertainment" has a wider meaning. Any such wide meaning does not fit into the scheme of Rule 11 of the General Condition Rules. That is because, if 'Entertainment' is understood in the wider sense the rule would forbid the licensee from serving food and refreshment in a place which is licensed for the sale of liquor. A CL-9 licence is issued to authorise sale of liquor only in places where food and refreshment is also served. The wider meaning given to the term entertainment has no application to Rule 11 in which the said term has been used in a restricted sense and ought to be understood in the context in which it appears. When so viewed, the expression "any kind of entertainment" in Rule 11, cannot include playing of music whether live or taped. The expression any kind of entertainment appears in the company of the expression 'unlawful act' and must therefore take its colour from the said expression so as to be understood to mean an entertainment which has an element or tendency of being unlawful. . . . Rule 11 of the General Condition Rules, does not forbid live music in a Restaurant holding a CL-9 licence for serving liquor, food and refreshment. — *R. Shankaregouda v The Commissioner of Police, Bangalore,* **1998(3) Kar. L.J. 494D.**

[1][**11-A. Prohibition of publication of advertisements relating to intoxicants** ***etc.***—(1) No licensee or any person on his behalf shall use the name and other details contained in the label of the brand of liquor approved by the Excise Commissioner under Rule 15 of the Karnataka Excise (Bottling of Liquor) Rules, 1967 for advertising the sale or consumption of liquor, by way of printing or publishing in any newspaper, news sheet, book, leaflet, booklet, or any other single or periodical publication or displaying hoardings or in any other manner on highways, in lanes, by lanes or in public places, or cinematographic film or slides or sign board, balloon, parachute or any announcement made by any means or producing or transmitting light, sound or smoke, as a means or method of attracting public attention:

Provided that nothing contained in sub-rule (1) shall apply to catalogues or price lists.

Explanation.—For the purpose of this rule advertisement includes the advertisement made by the licensee or by any person on his behalf of any product or material, other than liquor, with the name, figures, pictures, emblems, logos or pattern and style of letters, art work, colour combination *etc.*, resembling or identical to the name and other details of liquor contains in the label approved by the Excise Commissioner under Rule 15 of the Karnataka Excise (Bottling of Liquor) Rules, 1967.]

1. Rule 11-A inserted by Notification No. FD 10 PES 96(II), dated 6-4-2004, w.e.f. 6-4-2004.

12. Intimation to Police Officers.—The licensee shall give intimation to the Police Officers of any thief or person suspected to have committed any offence when such person is in his shop.

13. Customers not to be allowed to stay at night.—The licensee shall not allow any person other than a member of his family or his authorised servant in the shop during nights after the time fixed for closing the shop.

[1][**Explanation.**—For the purposes of this rule 'Family' means the wife, or husband, legitimate children and step children or any other member residing with and wholly dependent on such licensee.]

CASE LAW

Rule 13 — Refund the earnest money deposited by her husband in accordance with Rule 13 — Karnataka High Court Act, 1961, Section 4 — Permissibility — Appellant also sought for setting aside endorsement dated 30-10-1999 and demand notice dated 13-1-2000 issued by Deputy Commissioner of Excise, demanding a sum of Rs. 3,15,18,991/- towards the loss caused to the Government in view of re-auction — Held, order passed by learned Single Judge is modified and demand notice dated 13-1-2000 issued by Deputy Commissioner, Mandya is quashed — However, forfeiture of the EMD amount is confirmed.

Dilip B. Bhosale and B. Manohar, JJ., Held: The appellant herein had filed a writ petition seeking writ of *mandamus* directing the respondents to refund the earnest money deposited by her husband in accordance with Rule 13 of the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969 in respect of Mandya Taluk and Pandavapura Taluk with interest as the offer to take the right of retail vend of liquor given by the husband of the appellant was frustrated due to his death. Further the appellant also sought for setting aside the endorsement issued by the Deputy Commissioner of Excise, demanding a sum of Rs. 3,15,18,991/- towards the loss caused to the Government in view of re-auction. In pursuance of the notification dated 12-4-1999 issued by the Commissioner of Excise in Karnataka for auctioning the right to vend arrack for the Excise year 1999-2000 for Mandya District, the husband of the appellant participated in the auction conducted on 5-5-1999 and he was the highest bidder in respect of Mandya and Pandavapura Taluks. He had offered a sum of Rs. 68,00,100/- insofar as Mandya Taluk and Rs. 26,00,000/- in respect of Pandavapura Taluk for the period from 1-7-1999 to 30-6-2000. Immediately on auction, on provisional confirmation, the husband of the appellant deposited one month's rent as per Rule 13(1) of the said Rules for the confirmation of the bid. The Deputy Commissioner of Excise by his order dated 12-5-1999, confirmed the bid of the said Annegowda as required under Rule 15 of the Lease Rules. Immediately on confirmation, the successful bidder has to fulfill the provisions of Rules 16 and 17 by entering into an agreement of lease with the State Government incorporating the terms and conditions under which the rate of retail vend of liquor in respect of the said two taluks. Further, within 15 days from the date of communication of the order of confirmation, the successful bidder has to

1. Explanation to Rule 13 added by GSR 171, dated 6-5-1969, w.e.f. 15-5-1969.

furnish security for an amount equal to 3 and 1/10th of monthly rent in the form of cash deposit in the form of Irrevocable Bank Guarantee. It is the case of the appellant that even before communication of the confirmation order, the said Annegowda died on 16-6-1999. Hence, he could not fulfill the requirements under Rules 16 and 17 of the Rules. On 26-6-1999, the Deputy Commissioner of Excise by his intimation letter informed the appellant that the bid offered by the said Annegowda was confirmed, whether the appellant is willing to continue the said business and if she is not willing, the EMD amount furnished by her husband Annegowda will be forfeited and re-auction will be held in respect of two taluks. The appellant by her letter dated 28-6-1999 informed the Excise Commissioner that she has no experience with regard to the retail vend of arrack; she is aged about 60 years and without any male help she cannot carry on the said business and sought for refund of the EMD amount deposited by her husband. Since the respondents have not refunded the said EMD amount, she filed writ petition seeking refund of the EMD amount. In the meanwhile, she received an endorsement dated 30-10-1999 informing the appellant that the auction sale of right to vend arrack has already been confirmed by the Commissioner in respect of Mandya and Pandavapura Taluks, hence the EMD amount deposited by her husband cannot be refunded. Further she also received a demand notice dated 13-1-2000 demanding a sum of Rs. 3,15,18,991/- towards the difference of bid amount between first auction and the second auction. She also sought for quashing of the said demand notice and endorsement. . . . . . . There is no infirmity or irregularity insofar as forfeiting the EMD amount is concerned. However fastening the liability on the appellant to pay difference of the kishth amount is contrary to law. Hence the order of the learned Single Judge requires modification. The order passed by the learned Single Judge is modified. The demand notice dated 13-1-2000 issued by the Deputy Commissioner, Mandya is quashed. However, forfeiture of the EMD amount is confirmed. – *Smt. Guruvamma v State of Karnataka and Others*, **2014(5) Kar. L.J. 63 (DB).**

[1][**14. Sales only for cash.**—x x x x x.]

[2][**15. Payment of rent** *etc.*—(1) The rent payable to the Government in respect of the shop or shops shall be credited by the licensee in the taluk or district treasury where the shop is situated. Every month's rent shall be credited on or before the last working day of that month in which case no interest shall be levied. Interest at the rate of fifteen per cent per annum shall be charged from the first day of the succeeding month on the outstanding amount of rentals as long as it remains undischarged irrespective of the expiry of the lease period or the termination of lease. The amount remitted after the due date shall be first adjusted towards interest due as on that day and the balance, if any, shall be adjusted towards the monthly rent. If the rent for any month is not credited before the end of that month or before the expiry of the time granted under sub-rule (1-A), the lease shall be

1. Rule 14 omitted by Notification No. FD 16 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016
2. Rule 15 substituted by Notification No. FD 6 PES 2003, dated 30-6-2003, w.e.f. 1-7-2003.

determined, the licence shall be cancelled and the right of retail vend of liquor shall be disposed of afresh.]

[1][(1-A) the Deputy Commissioner may, on an application made to him in this behalf, if satisfied for reasons to be recorded in writing that the monthly rent could not be paid before the end of the month due to circumstances beyond the control of the licensee, grant time upto and inclusive of the tenth day of the succeeding month. If such rent together with interest due is not paid within the time so granted, the Deputy Commissioner may, on an application made to him in this behalf and after obtaining adequate security in the form of irrevocable bank guarantee of a Scheduled Bank for an amount equal to the amount of one month's rent together with interest due for the full month, grant further time till the end of such succeeding month.]

[2][(1-B) The Excise Commissioner may, by order in writing, grant time for a further period not exceeding fifteen days, if, on application made to him in this behalf through the Deputy Commissioner he is satisfied that the monthly rent could not be paid for reasons beyond the control of the licensee].

[3][(1-C) If the rent for any month is not paid on or before the date specified in sub-rule (1) or before the expiry of the time granted under sub-rule (1-A) or under sub-rule (1-B), the lease shall be determined and the licence shall be cancelled and the right to vend liquor shall be disposed afresh in such manner as the State Government may direct and such disposal shall be at the risk of the defaulter who shall be liable for all losses that may be sustained by the State Government and the Deputy Commissioners may forfeit the deposits of the defaulter either in full or in part with the approval of the excise Commissioner.]

(2) The lease shall be determined and the licence cancelled in the case of tappings of the trees without payment of duty thereof on behalf of the licensee and tree tax and tree rent is not remitted immediately, after they are booked for infraction.

(3) The Superintendent of Excise may stop the issue of the allotted liquor or trees for the realisation of rent, tree tax and tree rent.

(4) If the rent, tree tax and tree rent are not credited even in respect of any one shop or the group of shops of the licensee, the lease shall be determined and the licence cancelled and the group of shops may be put to reaction.

(5) The advance rent deposited by the licensee before the commencement of the lease shall be adjusted towards the rent of the last month of the lease period.

CASE LAW

R. 15 — As amended by Notification dated 25-6-1983 w.e.f. 1-7-1983 — Leases for excise year 1-7-1983 to 30-6-1984 — Auction for — Stipulation in the Notification, dt. 25-6-1983 that lease shall be subject to provisions of Act & Rules as amended from time to time — *Held,* not open for bidder to contend

1. Sub-rule (1-A) substituted by GSR 432, dated 12-12-1969 and shall be and shall always be deemed to have been substituted w.e.f. 25-11-1969.
2. Sub-rule (1-B) inserted by GSR 50, dated 12-2-1976, w.e.f. 19-2-1976.
3. Sub-rule (1-C) inserted by GSR 250, dated 24-8-1979, w.e.f. 30-8-1979.

that the auction which had taken place before publication of Rules would not be subject to the impugned rule. — *State of Karnataka v Anjanappa & Co.,* **1988(2) Kar. L.J. 118 (DB) : ILR 1988 Kar. 1695 (DB).**

Rule 15 — As amended by Gazette Notification dated 25-6-1983 — Levy of interest on payments made beyond stipulated period — Source of power for State Government for such levy is Section 71(1) and (2)(h) of Karnataka Excise Act, 1965 : Sub-clause (ii) of clause (h) of sub-section (2) of Section 71 has no applicability — Rate of interest enhanced from 6¼% to 18% p.a. by Gazette Notification dated 25-6-1983 held to be not *ultra vires* the rule making power of the State Government — Scope of the Rule — Explained. — *M/s. H. Dasappa and Sons v State of Karnataka and Others,* **1988(2) Kar. L.J. 19 (DB) : ILR 1988 Kar. 1710 (DB).**

R. 15(1-A) — Waiver of interest on the excise revenue arrears payable under Rule 15 — Whether beyond the rule-making power of the State Government?

K.A. Swami, Actg. C.J. and L. Sreenivasa Reddy, J., Held.—No provision of the Act has been pointed out to us which places the impugned rule beyond the power of the rule-making authority or indicates that the impugned rule is contrary to any of the provisions contained in the Act. We have already pointed out that interest is levied only under Rule 15 of the rules which is framed in exercise of the rule-making power. If that be so, it follows that in exercise of the very rule-making power, the State Government can either modify Rule 15 by modifying the rate of interest or mode of recovery or by completely waiving the interest. Therefore, we are of the view that Rule 15-A cannot be held to be beyond the rule-making power of the State Government. — *K.P. Ramesh v State of Karnataka and Another,* **1993(2) Kar. L.J. 358 (DB).**

[1]**[15-A. Waiver of interest.**—Notwithstanding anything contained in these rules, the State Government may if it considers necessary so to do, in the interest of expeditious recovery of arrears of excise revenue, [2][by notification issued in this behalf] waive the interest payable under Rule 15, and may grant such instalments, not exceeding three monthly instalments, as it thinks fit for payment of arrears of principal amount, wherever the defaulters come forward and make payment of the outstanding principal amount:

[3][Provided that this scheme shall be in operation over such period as the State Government may specify in the notification.]

16. Suspension of licence.—(1) The licence may be suspended by the Deputy Commissioner when the licensee makes default in payment of the rent, tree tax and tree rent of any shop or group of shops.

(2) When a licence is suspended, the Deputy Commissioner may make alternate arrangements for the sale of liquor. Any loss which the Government

1. Rule 15-A inserted by Notification No. FD 5 PES 2000, dated 28-4-2000 and shall be deemed to have come into force w.e.f. 1-4-2000.
2. Inserted by Notification No. FD 25 PES 2003, dated 20-6-2006, w.e.f. 20-6-2006.
3. Proviso substituted by Notification No. FD 25 PES 2003, dated 20-6-2006, w.e.f. 20-6-2006.

may incur in this behalf may be recovered from the licensee and the Deputy Commissioner may forfeit the deposits either in full or in part with the approval of the Excise Commissioner.

17. Transfer of lease not permitted.—The right of retail vend of liquor shall not be transferred by the licensee except with the previous permission of the Deputy Commissioner.

CASE LAW

Rr. 17 & 17-A — Circular dated 2-5-1984 and 24-10-1984 — Letter number EXE. SO. 28/1978-89, dated 15-4-1986 — Circular dated 2-5-1984 not in conformity with law: transfer on basis of circular unsustainable.

S. Mohan, C.J. and N.Y. Hanumanthappa, J., Held.—The entire case is based on the Circular dated 2-5-1984. As rightly pointed out in the order dated 15-4-1986 this Circular is contrary to law. Only when the authority has power to do something and if he makes a promise and if the petitioner acts on such promise the question of equitable estoppel would arise. Where contrary to the statutory provisions and where there is no scope for transfer by volition the transfer is sought to be effected by merely payment of Rs. 500/- based on the Circular, such a transfer is *ab initio* void. If this position is arrived at, the demand for Rs. 12,500/- treating this as a fresh licence is perfectly valid. — *T. Thimmappa and Others v The Excise Commissioner in Karnataka, Bangalore and Others*, **1992(1) Kar. L.J. 360 (DB) : ILR 1991 Kar. 3710 (DB).**

Rules 17 and 17-B — Bar licence — Transfer of — Not transferable except with previous permission of Deputy Commissioner — Licensee intending to transfer his licence has to make application therefor with payment of prescribed fees, and Deputy Commissioner can transfer licence in favour of person named in application only if such person is eligible for grant of licence under Act — Licensee, not capable of running business himself, cannot permit another person to carry on business on basis of lease agreement or power of attorney or like — Such arrangement to run business is not permissible, and where it is resorted to, licence is liable to be cancelled.

The Clause 9 licence stand in the name of respondent 3 who has submitted the applications for renewals. Simply because the name of Hotel Vandana is written thereon, it does not confirm any right on the petitioner. No order under Rule 17 of the Karnataka Excise Licences (General Conditions) Rules, 1967 have been produced and thus on the basis of any agreement registered or unregistered the petitioner cannot have the right to vend liquor in respect of the licence issued to respondent 3. The State has to be very careful while granting the licence. If a person is not capable of running the business himself or through his staff should not ordinarily be entitled for any licence. Sub-letting or sub-leasing of premises where a business is carried on is also not permitted. In cases where it is found that on the basis of some agreement the business is being carried without permission of the Commissioner, it was appropriate that even the licence granted to the person who has permitted to delegate his power to somebody else should have been cancelled. No person can carry on business of vending the liquor without a proper licence and if vending of the liquor is permitted, under such arrangement or agreement it

would frustrate the very object of having the control over the licensee or to make him even in some cases criminally liable. The petitioner has no *locus standi* to challenge the order of the Deputy Commissioner for transfer of the place of business and the petition is therefore liable to be dismissed. . . . . It may also be observed that the Excise Commissioner should take immediate steps in cases like the present one where the business is not being carried on by the licensee but by some other person on the basis of lease agreement or the power of attorney or the like, then the proper step would be to cancel the licence itself. — *Mahabala Uggappa Adappa v Excise Commissioner and Others*. **2000(2) Kar. L.J. Sh. N. 4.**

Rules 17 and 17-B — Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, Rule 3(9) — Bar licence — Cancellation for unauthorised transfer of — Transfer involves parting with ownership of business of running bar for which licence was granted, and transfer becomes unauthorised attracting penalty of cancellation of licence, only if transfer has been effected without previous permission of designated authority and without payment of requisite transfer fee — Act does not contemplate that licensee must himself run bar by being present on premises all time — He is not prohibited from managing business through servant or agent — Power of attorney simpliciter granted to agent to manage business does not amount to transfer of business to agent — Unless there is finding that licensee has divested himself of ownership of business, licence cannot be cancelled — Cancellation of licence in absence of such finding, held, amounts to wrongfully preventing licensee from carrying on her business.

Rule 17 of the Karnataka Excise Licences (General Conditions) Rules, 1967 provides that the right of retail vend of liquor shall not be transferred by the licensee except with the previous permission of the Deputy Commissioner. Rule 17-A provides that in the event of death of the licensee during the currency of the licence, the Deputy Commissioner may, on an application by the legal heirs of the deceased with the previous sanction of the Excise Commissioner, transfer the licence in their favour. Rule 17-B provides for transfer of licences. It provides that in regard to licences issued for sale of Indian liquor or foreign liquor or both, in Form No. CL-1 or CL-2 or CL-7 or CL-9 under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, the Deputy Commissioner may on an application by the licensee and subject to payment of transfer fee equivalent to the annual licence fee specified and with the prior approval of the Excise Commissioner, transfer such licence in favour of any person named by such licence, if such person is eligible for grant of a licence. . . . . The State has the exclusive privilege and right of manufacturing and selling intoxicating liquor. Grant of a CL-9 licence is a privilege or permission granted by the State to the licensee to sell liquor in the manner prescribed in the licence. Parting with the possession and control of the business covered by the CL-9 licence would amount to transfer of such privilege and licence and such an act without the permission of the licensing authority, will be illegal and violative of the terms of licence. But, if the licensee retains possession and control, but only authorises a servant or an agent to manage the business on his behalf, there is no illegality

or infringement of the conditions of licence. In fact clauses (b) and (c) of sub-section (1) of Section 29 contemplate the business of a licensee being run by any agent or servant with the express or implied permission or authority of the licensee. . . . . A general power of attorney is executed as a matter of convenience. By executing such a power of attorney, the executant [principal] provides for management of his affairs/business/properties, by the agent. A power of attorney is normally executed when the executant is not personally able to attend to his affairs/business due to absence or due to incapacity or other preoccupation. The acts of the agent are binding on the principal. In spite of the absence of the principal (executant) granting the power of attorney, the possession and control of the affairs/business remain with the principal. A general power of attorney granted to an Agent to manage the business of the principal does not create any right, title or interest in the asset or business which is the subject-matter of the power of attorney, in favour of the attorney holder. Power of attorney is revocable at the will and pleasure of the principal. In short, under a general power of attorney simpliciter [either general or special], there is a mere authority to act, unaccompanied by any interest of the agent in the subject-matter of the power of attorney. A common example of such power of attorney is what is granted by a member of family, to another family member to run/manage the business/affairs of the grantor. . . . . When companies and firms can apply and obtain licences and run the business through their authorised agents or employees, there is nothing *per se* objectionable about a person giving a general power of attorney to his family member or friend, or an employee, to run a Bar and Restaurant. A company or firm or individual may own a chain of Restaurants all over the country or State and may grant a power of attorney to an agent/employee to look after the day-to-day management and to apply for licence every year. Mere execution of a power of attorney by the licensee to a family member or employee or friend, cannot lead to suspension or cancellation of the licence or refusal to grant or renew the licence. . . . . . Thus, only if it is established that the possession and control of the licensed business has been transferred to someone else, or that the licensee has not retained any control over the licensed business, or where there is a transfer of licence without permission, the licence will be liable to be cancelled. On the other hand, if the licensee continues to have control of the licensed business, but runs the business through a servant or an authorised agent, (that is attorney holder) then there is no violation of the terms and conditions of licence, irrespective of whether the licensee lives in the city/place where the business premises is situated. The question of cancellation of the licence will not arise, in such a case. . . . . In this case, there is no finding that the licensee petitioner has parted with the possession of the licensed premises or the control of the business to anyone else, in particular to the power of attorney holder. Nor has the licence been transferred by the petitioner to anyone else. The power of attorney was granted to a family member, even prior to the date of the licence being transferred from the name of the petitioner's mother to the petitioner. The petitioner obtained transfer of the licence from the name of her mother to her name by making an application through the said power of attorney holder. Grant of a power of attorney by a licensee to a family

member, to manage the affairs or business of the licensee, cannot be considered as parting with the possession or transferring the control or transferring the licence to someone else. The third respondent has completely overlooked this aspect of the matter and has misconstrued the observations of this Court in *Mahabala's* case. . . . Hence, the petition is allowed. Consequently, the petitioner will be entitled to continue her business. She will also be entitled to claim appropriate refund of licence fee in regard to the period during which she has been wrongfully prevented from carrying on the business by the impugned order. — *Geetha v State of Karnataka and Others*, 2000(2) Kar. L.J. 383.

[1][**17-A. Transfer in the event of death.**—In the event of death of the licensee or the lessee [2][x x x x x], the Deputy Commissioner may on an application by the legal heirs of the deceased with the previous sanction of the Excise Commissioner, transfer the licence or the lease as the case may be, in their favour.]

CASE LAW

Rule 17-A — CL-2 Licence — Petitioners being legal heirs seeking transfer of licence of the deceased husband of 1st petitioner and father of other petitioners — Daughter of deceased raising objections — Held — In the absence of agreement between all the legal heirs, direction to transfer licence to one legal heir cannot be granted — Parties at liberty to avail remedies in accordance with law.

A.S. Bopanna, J., Held: Insofar as the contention that is put forth by the learned Counsel for the petitioners by placing reliance on Rule 17-A of the Rules, 1967, a perusal of the Rule no doubt would indicate that the legal heirs of the deceased licensee may make an application to the Deputy Commissioner of Excise for transfer and such application could be considered for transfer of licence with the previous sanction of the Excise Commissioner in favour of such legal heirs. If in that light, the petitioners have sought for transfer relying on the said provision and if the wife of respondent 4 who is the daughter of the deceased licensee has objected with regard to the transfer of licence, neither the Deputy Commissioner of Excise, the Excise Commissioner nor this Court in a writ proceedings can decide with regard to the appropriate person to be considered as the legal heir if all the legal heirs by themselves do not unitedly seek for transfer of licence and raise an *inter se* dispute. . . . . . . Therefore, in that light, if the provision is taken into consideration unless there is an agreement between the legal heirs to seek transfer of licence jointly in all their names or in the name of any one person with the consent of the others, this Court at this juncture cannot direct that the licence be transferred in the name of any one person where there are more than one legal heir. . . . . . . That apart, when Court already indicated that if there are more than one legal heir, it can only be in the joint names or in the name of one person as agreed by the others, in the absence of such agreement

1. Rule 17-A inserted by GSR 141, dated 5-5-1977, w.e.f. 12-5-1977.
2. The words "during the currency of the licence or lease" omitted by Notification No. FD 08 PES 2014, dated 21-11-2014, w.e.f. 21-11-2014

between the legal heirs, a direction in the writ petition to transfer the licence to one legal heir would not be possible........ Insofar as the claim as made by respondent 4 under a *Will*, certainly the right of respondent 4 also cannot be adverted to in the instant writ petition since it is for the Competent Court to decide all these aspects of the matter. Therefore in such circumstance, the *mandamus* as sought cannot be issued. The parties are at liberty to avail their remedies in accordance with law. – *Smt. Hamsamma and Others v The Excise Commissioner in Karnataka, Shanthinagar, Bangalore and Others*, **2016(2) Kar. L.J. 635.**

[1][**17-B. Transfer of licence in other cases.**—(1) Notwithstanding anything contained in Rule 2, licences issued.—

(i) for Sale of Indian Liquor (other than arrack) or Foreign Liquor or both, in Form No. CL-1 (Wholesale licence) or CL-2 (retail shop licences) [2][CL-6A (Star Hotel Licence)] or CL-7 (Hotel and Boarding House Licences) [3][or CL-7D (Hotel and Boarding House Licences owned by the person belonging to Scheduled Castes or Scheduled Tribes)] or CL-9 (Refreshment room (Bar) Licence under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968; or

(ii) for sale of Beer under the Karnataka Excise (Lease of Right of Retail Vend of Beer) Rules, 1976;

The Deputy Commissioner may on an application by the licensee and [4][subject to payment of transfer fee equivalent to twice the annual licence fee] specified in Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 or Rule 5 of the Karnataka Excise (Lease of Right of Retail Vend of Beer, Rules, 1976, as the case may be, and with the prior approval of the Excise Commissioner, transfer such licence in favour of any person named by such licence, if such person is eligible for grant of a licence under the Karnataka Excise Act, 1965 or the rules made thereunder:

[5][Provided that in case of a Licence granted in Form CL-7D (Hotel and Boarding House Licences) to a person belonging to the Scheduled Castes shall be transferred only to a person belonging to the Scheduled Castes and the Licence granted in Form CL-7D to a person belonging to the Scheduled Tribes shall be transferred only to a person belonging to the Scheduled Tribes, as the case may be. In the case of Partnership Firm, all the partners shall belong to the Scheduled Castes or the Scheduled Tribes, as the case may be. In the case of a Company incorporated under the Companies Act, 2013,

1. Rule 17-B inserted by GSR 64, dated 23-5-1995 and shall be deemed to have come into force w.e.f. 1-4-1995.
2. Inserted by Notification No. FD 03 PES 2007(2), dated 25-5-2007, w.e.f. 25-5-2007.
3. Inserted by Notification No. FD 08 PES 2014, dated 21-11-2014, w.e.f. 21-11-2014
4. Substituted for the words "subject to payment of transfer fee equivalent to the annual licence fee" by Notification No. FD 05 PES 2013(II), dated 28-2-2013, w.e.f. 1-3-2013.
5. Proviso inserted by Notification No. FD 08 PES 2014, dated 21-11-2014, w.e.f. 21-11-2014

all the Directors shall belong to the Scheduled Castes or the Scheduled Tribes as the case may be.]

(2) Nothing in this rule shall apply to transfer of licence under Rule 17-A.]

CASE LAW

Rule 17-B — Transfer of CL-9 licence — Order of Excise Commissioner rejecting the claim — No reason stated for rejecting the transfer — Impugned order set aside — Matter remitted back for reconsideration in accordance with law.

H.G. Ramesh, J., Held: Why the licence cannot be transferred under the above Rule is not stated. Hence, the impugned order dated 11-2-2015 (Annexure-J) is liable to be set aside. The matter requires to be reconsidered by respondent 2. The impugned order dated 11-2-2015 is set aside. The matter is remitted to respondent 2 for reconsideration in accordance with law. All contentions of both the parties are kept open. Respondent 2 shall dispose of the petitioner's claim expeditiously and in any event within two months from the date of receipt of a copy of this order. The petition stands disposed of accordingly. – *Smt. Bhagirathi v State of Karnataka and Others*, **2015(3) Kar. L.J. 292.**

[1][**18. Authorised persons only to be in-charge.**—The licensed shop shall not be put in the charge of any person other than the one authorised by the licensee and in respect of whom a nowkarnama is issued by the Inspector of Excise. A Court-fee stamp of rupees two shall be affixed to each nowkarnama. A certificate from the Health authority to the effect that the persons so authorised are not suffering from any contagious disease, shall be produced by the licensee before the Inspector of Excise once in six months.

This provision shall be applicable to employees working in Breweries, Distilleries, Wineries and also toddy tappers working under toddy licensees.

Explanation.—For the purpose of this rule Health authority means "any Registered Medical Practitioner.]

19. Report of breach.—Every breach of the conditions of the licence or provisions of the Karnataka Excise Act, 1965 by any servant of the licensee or other person shall immediately be reported by the licensee to the Excise Officer and the licensee shall comply with the orders of the Excise Officer in this behalf.

20. Licensee not to be interested in Excise Officer.—No licensee shall have any pecuniary transactions with the Officers of the Department of Excise, Police or Revenue.

21. Inspection.—(1) The following officers shall be authorised to inspect any shop,—

(a) Any Excise Officer not below the rank of Sub-Inspector of Excise;

1. Rule 18 substituted by GSR 359, dated 3-12-1975, w.e.f. 11-12-1975.

(b) Any Revenue Officer not below the rank of Tahsildar;

(c) Any Gazetted Officer of the Medical or Health Department.

(2) The licensee shall produce the receptacles kept for measurements of the liquor at the time of Inspection.

(3) The licensee shall maintain an inspection book and other registers as may be prescribed by the Excise Commissioner and keep a record of all inspection notes and make proper entries. The Inspection Book shall be delivered to the Excise Officer on the termination of the lease period.

CASE LAW

Rule 21 — Criminal Procedure Code, 1973, Section 482 — Prayer — For quashing of FIR — Offences — Under the Karnataka Excise Act, 1965 — Search conducted without recording the grounds for his belief — That such an offence committed — Held, such probable defence is available only at the time of trial, thus writ petition is dismissed.

N. Ananda, J., Held: Search conducted by an officer, without recording of the grounds for his belief that an offence under the Act was likely or being committed would vitiate entire proceedings and investigation of first information would be abuse of process of law...... It is not possible to take into consideration the probable defence that may be available to petitioner during trial. At this stage, it is not possible to hold that there was violation of the provisions of Section 54 of the Act. Such contention can be raised only after final report is filed against petitioner. — *Smt. Mahananda v State of Karnataka*, **2013(1) Kar. L.J. 178.**

22. Conviction entails cancellation of all licences.—Where a licensee holds more than one licence and he is convicted for breach of conditions of any one of such licences, the other licences also may be cancelled.

[1][**23. Shifting of shops.**—Subject to the restrictions specified in Rule 5, the Deputy Commissioner may permit a licensee to shift the location of his shop from one place to another within the limits of a Grama Panchayat or within the [2][Municipal Area] or City Municipal Corporation] [3][on payment of a fee equivalent to [4][fifty per cent] of the licence fee charged on the licence in respect of such shop:]

[5][x x x x x:]

1. Rule 23 substituted by Notification No. FD 22 PES 93(ii), dated 9-5-1994, w.e.f. 9-5-1994.
2. Substituted for the words "territorial division of Municipality" by GSR 119, dated 19-7-1994, w.e.f. 19-7-1994.
3. Inserted by Notification No. FD 5 PES 2000, dated 28-4-2000 and shall be deemed to have come into force w.e.f. 1-4-2000.
4. Substituted for the words "twenty-five per cent" by Notification No. FD 03 PES 2014(V), dated 28-2-2014, w.e.f. 1-7-2014.
5. First proviso omitted by Notification No. FD 08 PES 2011, dated 6-8-2014, w.e.f. 6-8-2014.

[1][Provided further that subject to Rule 5, in case of CL-2 [2][and CL-9] licences, the Deputy Commissioner may permit a licensee to shift the location of his shop.—

(a) within the limits of Municipal Area/Town Panchayat Area or City Municipal Corporation;

(b) from category (a), (b), (c) and (d) areas to category (e) area of item 2 [3][and item 9] of sub-rule (1) of Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 within the District;

(c) within category (e) area of item 2 [4][and item 9] of sub-rule (1) of Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 within the District.]

24. Licensee not entitled to compensation.—Where a licence is cancelled during the currency of the licence, the licensee shall not be entitled to any compensation of any kind.

1. Second proviso inserted by Notification No. FD 7 PES 2008(II), dated 15-1-2009, w.e.f. 15-1-2009.
2. Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010.
3. Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010.
4. Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010.

THE KARNATAKA EXCISE LICENCES (GENERAL CONDITIONS) (AMENDMENT) RULES

[1]THE KARNATAKA EXCISE LICENCES (GENERAL CONDITIONS) (AMENDMENT) RULES, 1969

GSR 171.—In exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Governor of Karnataka, hereby makes the following rules, the draft of the same having been previously published as required by sub-section (1) of Section 71 of the said Act, in Notification No. GSR 121, dated the 2nd April, 1969 (HD 2 PES 69) in Part IV, Section 2C(i) of the Karnataka Gazette, dated the 10th April, 1969, namely.—

1. Title and commencement.—(1) These rules may be called the **Karnataka Excise Licences (General Conditions) (Amendment) Rules, 1969.**

(2) They shall come into force at once.

2. Amendment of Rule 5.—In Rule 5 of the said rules,—

(1) in sub-rule (1), after the words "the licensee shall", the words "except in towns, cities and other places where more than one shop is sanctioned", shall be *inserted;*

(2) in sub-rule (2), after the words "village panchayat", the words "or the local authority concerned", shall be *inserted.*

3. Amendment of Rule 9.—In sub-rule (1) of Rule 9 of the said rules, the words "other than his family member" shall be *omitted.*

4. Amendment of Rule 13.—To Rule 13 of the said rules, the following explanation shall be *added,* namely.—

"**Explanation**—For the purposes of this rule family means the wife, or husband, legitimate children and step children or any other member residing with and wholly dependent on such licensee."

5. Amendment of Rule 15.—In sub-rule (1) of Rule 15 of the said rules,—

(i) for the words "before the fifth", the words "before the tenth" shall be *substituted;* and

1. Published in the Karnataka Gazette, dated 15-5-1969, vide Notification No. HD 2 PES 69, dated 6-5-1969.

(ii) for the figures and letters "15th" in the two places where they occur, the words "Twenty-fifth" shall be *substituted.*

[1]THE KARNATAKA EXCISE LICENCES (GENERAL CONDITIONS) (SECOND AMENDMENT) RULES, 1969

GSR 384.—In exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka, hereby makes the following rules to amend the Karnataka Excise Licences (General Conditions) Rules, 1967, the draft of the same having been previously published as required by sub-section (1) of the said section in Notification No. GSR 365, dated 25th October, 1969 (HD 463 EDC 69), in Part IV, Section 2C(i) of the Karnataka Gazette, Extraordinary, dated the 25th October, 1969, namely.—

1. Title and commencement.—(1) These rules may be called the **Karnataka Excise Licences (General Conditions) (Second Amendment) Rules, 1969.**

(2) They shall come into force at once.

2. Amendment of Rule 15.—In Rule 15 of the Karnataka Excise Licences (General Conditions) Rules, 1967,—

(i) in sub-rule (1), after the words "by the end of the month", the words, brackets, figures and letter "or before the expiry of the time granted under sub-rule (1-A)" shall be *inserted;* and

(ii) after sub-rule (1), the following sub-rule shall be *inserted,* namely.—

"**(1-A).** The Deputy Commissioner may, on an application made to him in this behalf, if satisfied, for reasons to be recorded in writing, that the monthly rent could not be paid before the end of the month due to circumstances beyond the control of the licensee and after obtaining adequate security in the form of an irrevocable bank guarantee of a Scheduled Bank for an amount equal to the amount of one month's rent together with interest due for the full month, grant time up to a maximum period of one month."

1. Published in the Karnataka Gazette, Extraordinary, dated 4-11-1969, vide Notification No. HD 463 EDC 69, dated 4-11-1969.

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THE KARNATAKA EXCISE (SALE OF INDIAN AND FOREIGN LIQUORS) RULES, 1968

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[1]THE KARNATAKA EXCISE (SALE OF INDIAN AND FOREIGN LIQUORS) RULES, 1968

(As amended by GSR 90, dated 22-2-1969; GSR 216, dated 13-6-1969; GSR 403, dated 19-11-1970; GSR 273, dated 3-8-1972; GSR 159, dated 19-6-1973; GSR 344, dated 14-10-1976; GSR 409, dated 23-11-1976; GSR 344, dated 23-12-1976; GSR 149, dated 14-6-1978; GSR 152, dated 14-6-1978; GSR 312, dated 16-10-1978; GSR 327, dated 25-10-1978; GSR 145, dated 3/8-5-1979; GSR 96, dated 24-4-1980; GSR 191, dated 28-6-1980; GSR 35, dated 6-2-1981; GSR 121, dated 11-5-1981; GSR 140, dated 20-6-1983; GSR 144, dated 24-6-1983; GSR 292, dated 16-12-1983; GSR 32, dated 24-1-1984; GSR 277, dated 30-11-1984; GSR 214, dated 1-8-1986; GSR 20, dated 17-1-1987; GSR 80, dated 25-3-1987; GSR 140, dated 29-6-1987; GSR 294, dated 9-11-1987; GSR 152, dated 24-6-1988; SO 1380, dated 11-8-1988; GSR 173, dated 13-9-1989; GSR 181, dated 25-9-1989; GSR 16, dated 6-2-1990; GSR 25, dated 15-3-1991; GSR 39, dated 21-2-1992; GSR 84, dated 7-5-1992; GSR 74, dated 15-4-1993; GSR 93, dated 30-4-1993; GSR 182, dated 20-9-1993; Notification No. FD 22 PES 93(i), dated 9-5-1994; GSR 105, dated 5-7-1994; Notification Nos. FD 10 PES 95(i), dated 31-5-1995; FD 12 PES 95(iv), dated 29-6-1996; FD 325 EDC 95, dated 13-2-1997; GSR 67, dated 7-6-1997; Notification Nos. FD 18 EDC 97(I), dated 18-10-1997; FD 7 PES 98(i), dated 18-6-1998; FD 3 PES 99(iv), dated 9-6-1999; FD 9 PES 2000, dated 23-6-2000; FD 12 PES 2000, dated 24-6-2000; FD 9 PES 2000, dated 18-11-2000; FD 23 PES 99(2), dated 18-11-2000, FD 2 PES 2001, dated 22-2-2001, FD 15 PES 2001, dated 4-7-2001; FD 13 PES 2001(4), dated 13-7-2001; FD 15 PES 99(i), dated 24-6-2002; FD 18 PES 2002, dated 29-6-2002; FD 15 PES 99(i), dated 23-8-2002; FD 20 PES 2002, dated 1-4-2003; FD 22 PES 2002, dated 22-4-2003; FD 9 PES 2003(5), dated 5-6-2003; FD 16 PES 2003(i), dated 30-6-2003; FD 14 PES 2003(i), dated 30-6-2003; FD 2 PES 2004, dated 3-2-2004; FD 36 PES 2003(5), dated 23-2-2004; FD 06 PES 2006(7), dated 19-6-2006; FD 09 PES 2007, dated 29-6-2007; FD 17 PES 2007, dated 12-2-2008; FD 01 PES 2008, dated 25-3-2008; FD 3 PES 2008, dated 22-11-2008; FD 7 PES 2008(I), dated 15-1-2009; FD 17 PES 2009, dated 3-8-2009; FD 08 PES 2013, dated 27-8-2013; FD 03 PES 2014(IV), dated 28-2-2014; FD 14 PES 2013, dated 9-6-2014; FD 06 PES 2011, dated 1-8-2014; FD 09 PES 2014(1), dated 15-12-2014; FD 02 PES 2015, dated 15-4-2016; FD 03 PES 2015, dated 28-5-2016; FD 11 PES 2016, dated 23-6-2016; FD 12 PES 2015, dated 30-6-2016 **and FD 17 PES 2015, dated 4-11-2016.**)

GSR 7.—In exercise of powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka, hereby makes the following rules, the draft of the same having been previously published, as required by sub-section (1) of Section 71 of the said

1. Published in the Karnataka Gazette, dated 11-1-1968 vide Notification No. HD 73 ELF 67, dated 4-1-1968.

Act in Notification GSR No. 479 in Part IV Section 2C(i) of the Karnataka Gazette, Extraordinary, dated 26th October, 1967, namely.—

1. Title, application and commencement.—(1) These rules may be called the **Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968.**

(2) They shall apply to the sale of Indian liquor [1][x x x x x] and Foreign liquor.

(3) They shall come into force at once.

CASE LAW

Public interest petition filed under Article 32 not entertainable as it is sought to enforce Directive Principles under Article 47.

The writ petition filed under Article 32 of the Constitution is that the policy of prohibition is not being implemented as enjoined by Article 47. The petition is not entertainable. Article 47 of the Constitution, which is part of Directive Principles of State Policy enjoins that the State shall regard the raising of level of the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. Article 47 as in Part IV of the Constitution which contains Directive Principles of State Policy. Article 37 enjoins that the provisions of this part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. It has to be borne in mind that Article 32 of the Constitution gives the Supreme Court the power to enforce rights which are fundamental rights. Fundamental rights are justiciable, Directive Principles are not. Directive Principles are aimed at securing certain values or enforce certain attitudes in the law making and in the administration of law. Directive Principles cannot in the very nature of things be enforced in a Court of law. Whether a law should be made embodying the principles of Directive Principles depends on the legislative will of the legislation. Article 32 is not the machinery through which policy preferences or priorities are determined and Supreme Court is not the forum where the conflicting claims of policies or priorities should be debated. To make the State accept a particular policy, desirable and necessary as the policy might be is not the function of Article 32 of the Constitution. Article 32 is not the nest for all the bees in the bonnet of 'public spirited persons'.— *B. Krishna Bhat v Union of India*, **(1990)3 SCC 65. [Articles 32 and 47]**

To make the State accept a particular policy — Not the function of Article 32.

The petition under Article 32 is that the policy of prohibition is not being implemented as enjoined by Article 47 of the Constitution. Article 47 of the Constitution, which is part of our Directive Principles of State policy enjoins that the State shall regard the raising of the level of nutrition and the

1. The brackets and words "(other than arrack)" omitted by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.

standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. Article 47 is in Part IV of the Constitution which contains Directive Principles of the State Policy. Article 37 enjoins that the provisions of this part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. It has to be borne in mind that Article 32 of the Constitution gives the Supreme Court the power to enforce rights which are fundamental rights. Fundamental rights are justiciable, directive principles are not. Directive principles are aimed at securing certain values or enforce certain attitudes in the law making and in the administration of law. Directive principles cannot in the very nature of things be enforced in a Court of law. Whether a law should be made embodying the principles of directive principles depends on the legislative will of the legislation. Article 32 is not the machinery through which policy preferences or priorities are determined and this Court is not the forum where the conflicting claims of policies or priorities should be debated. To make the State accept a particular policy, desirable and necessary as the policy might be is not the function of Article 32 of the Constitution. Article 32 of the Constitution is not the nest for all the bees in the bonnet of 'public spirited persons'.— *B. Krishna Bhat v Union of India*, **(1990)3 SCC 65. [Articles 32, 37 and 47 of the Constitution]**

2. Definitions.—In these rules, unless the context otherwise requires.—

(a) **"Act"** means, the Karnataka Excise Act, 1965;

(b) **"Foreign liquor"** means liquor other than Indian liquor;

(c) **"Form"** means a form appended to these rules;

(d) **"Indian liquor"** means all liquor defined as Indian liquor in the Act, [1][x x x x x]

(e) **"Licence"** means a licence issued under these rules;

(f) **"Licensee"** means, a person to whom a licence is issued;

(g) **"Year"** means the year commencing on the first day of July.

3. Licences.—Licences for the vend of [2][Indian Liquor (other than arrack)] or Foreign liquor or both shall be of the following descriptions, namely.—

[3][(1) x x x x

(1-A) x x x x x.]

1. The words "other than arrack" omitted by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Clauses (1) and (1-A) omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.

(2) **Retail off shop licences for vend of Indian liquor or Foreign or both not to be drunk on the premises.**—Under these licences granted in Form C.L. 2, the sale of liquor in sealed bottles to any person in a quantity less than [1][0.050 litres] at a time is prohibited.

[2][(3) x x x x x.]

[3][(4) The Agent, Secretary or Manager or any other person entrusted with the management of the business of the club shall apply and obtain licence in Form CL-4 from the Deputy Commissioner. The licensee under this clause may open up to four additional counters for serving liquor for the convenience of the members within the licensed premises with the approval of the Deputy Commissioner.]

(5) **Occasional licences.**—These licences in Form CL-5 are issued for the sale of liquor at the refreshment stalls in connection with race meetings, public entertainments and other such public gatherings to be drunk on the premises.

(6) **Special licences.**—These licences shall be granted in Form CL-6 by the Deputy Commissioner of the district with the previous sanction of the Excise Commissioner, when the circumstances are such as not to allow of the issue of licences of any of the above descriptions, on such terms and conditions and for such periods, as he may on each occasion determine.

[4][(6-A) **Star Hotel Licences.**—Licences under this clause shall be granted by the Deputy Commissioner in Form 6-A to Star hotels for possession and sale of liquor. The licensees under this clause may serve liquor to the residents in the rooms and open more than one counter for the convenience of the residents and boarders within the licensed premises with the approval of the Deputy Commissioner.

Explanation.—'Star Hotel' means the hotel recognized as such by the Ministry of Tourism, Government of India.]

[5][(7) **Hotel and Boarding House licences.**—

(a) A licence under this clause shall be applied for and obtained in Form CL-7 from the Deputy Commissioner.

(b) No liquor under this licence shall be sold to persons other than those accommodated in the licenced hotel and boarding houses and their guests and casual visitors who take meals in such places.]

1. Substituted for the figures and word "0.180 litres" by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
2. Sub-rule (3) omitted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
3. Sub-rule (4) substituted by Notification No. FD 02 PES 2015, dated 15-4-2016, w.e.f. 15-4-2016.
4. Clause (6-A) inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002.
5. Sub-rule (7) substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

[1][Provided that no licence under this clause shall be granted unless the hotel and boarding house is having a minimum of thirty double rooms in corporation areas and twenty double rooms in other areas:

Provided further that the licences granted under this clause for the excise year 2001-2002 shall be allowed to renew the licences under the rule existing prior to the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquors) (First Amendment) Rules, 2002:]

[2][Provided further more that in respect of Hotels and Boarding Houses leased by the Karnataka State Tourism Development Corporation to private persons, firm or companies on renovate, operate, maintain and transfer (ROMT) basis, while granting or renewing the licenses under this clause, the Excise Commissioner may relax the condition regarding the minimum requirement of thirty double rooms in Corporation areas and twenty double rooms in other areas.]

[3][(7-A) **Tourist Hotel Licences.**—These licences may be granted to Tourist Hotels situated in places other than Cities and managed by the Tourist Development Corporation of the State Government or the Central Government for the possession and sale of Indian liquor (other than arrack) or Foreign liquor or both for supply to residents or for removal to their private rooms in the Tourist Hotel in which tourists stay or to regular boarders for consumption within a specified area in the licenced premises of the tourist hotel or boarding house set apart by the management for the purpose and approved by the Deputy Commissioner of the District in Form No.CL-14 on such terms and conditions as may be specified in the licence and on such other conditions as the Excise Commissioner may from time to time, specify.]

[4][(7-B) **Tourist Hotel Beer Bar Licences.**—These licences may be granted to Tourist Hotels [5][x x x x x] managed by the Tourism Development Corporation of the State Government or Government or Central Government for the possession and sale of beer for supply to residents or for removal to their private rooms in the Tourist Hotel in which tourists stay or to regular boarders for consumption within a specified area in the licenced premises of the tourist hotel or boarding house set apart by the management for the purpose and approved by the Deputy Commissioner of the District in Form CL-15, on such terms and conditions, as may be specified in the licence and on such other conditions as the Excise Commissioner may, from time to time, specify.]

1. Provisos inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002.
2. Third proviso inserted by Notification No. FD 2 PES 2004, dated 3-2-2004, w.e.f. 3-2-2004.
3. Sub-rule (7-A) inserted by GSR 159, dated 19-6-1973, w.e.f. 28-6-1973.
4. Sub-rule (7-B) inserted by GSR 35, dated 6-2-1981, w.e.f. 6-2-1981.
5. The words "situated in places other than cities" omitted by GSR 121, dated 11-5-1981, w.e.f. 13-5-1981.

[1][(7-C) **Licence to supply liquor on Board of Train engaged and run by Tourism Development Corporation of State Government or Central Government.**—(a) A licence under this rule may be granted to the Tourism Development Corporation of State Government or Central Government in Form CL-7C by the Deputy Commissioner, Bangalore Urban District, with the prior sanction of the Excise Commissioner for possession and sale of Indian liquor or foreign liquor or both for supply to the *bona fide* travelers traveling in the trains engaged and run by the Tourism Development Corporation of the State Government or Central Government for consumption of liquor within the train during its stay in the limits of the Karnataka State subject to the conditions specified therein the licence.

(b) While applying for licence under this clause, the applicant shall submit application along with the fee specified in Rule 8 and due permission and No Objection Certificate granted by the competent Indian Railway Authorities to serve liquor on board of the train.]

[2][(7-D) Hotel and Boarding House Licenses owned by the person belonging to Scheduled Castes and Scheduled Tribes.—

(a) A licence under this clause shall be applied for and obtained in Form CL-7D from the Deputy Commissioner;

(b) No liquor under this license shall be sold to persons other than those accommodated in the licensed hotel and boarding houses and their guests and casual visitors who take meals in such places:

Provided that no licence under this clause shall be granted unless the hotel and boarding house is having a minimum of fifteen double rooms in Corporation areas and ten double rooms in other areas.]

(8) **Military Canteen Licences.**—These licences may be granted to military canteens for sale of [3][Indian Liquor (other than arrack)] or Foreign liquor or both to the members of the armed forces for their use only and shall be in Form CL-8.

[4][(8-A) **Military Canteen Stores Bonded Warehouse Licence.**—A licence under this clause shall be in Form CL-8-A and shall be granted by the Excise Commissioner, to establish a military canteen stores bonded warehouse, to import, export and store Indian made liquor (other than arrack) or foreign liquor without payment of excise duty. The licensee shall supply or sell the above liquor only after payment of excise duty to other military canteen stores within the State having CL-8 licence.]

1. Sub-rule (7-C) inserted by Notification No. FD 01 PES 2008, dated 25-3-2008, w.e.f. 25-3-2008.
2. Sub-rule (7-D) inserted by Notification No. FD 14 PES 2013, dated 9-6-2014, w.e.f. 9-6-2014.
3. Substituted for the words "Indian liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
4. Sub-rule (8-A) inserted by GSR 152, dated 24-6-1988, w.e.f. 1-7-1988.

[1][(8-B) **Border Security Force or Para Military Forces Licences.**—Licences may be granted in Form CL-8-B to Border Security Forces or Para Military Units for sale of Indian Liquor (other than arrack) or Foreign Liquor or both to the members of Border Security Force or Para Military Units for their personal consumption.]

[2][(9) **Refreshment Room (Bar) Licence.**—

(a) A licence under this clause, for refreshment room (bar) for sale of Indian liquor combined with the supply of meals or eatables shall be applied and obtained in Form CL-9 from the Deputy Commissioner:

Provided that no such licence shall be granted by the Deputy Commissioner unless he is satisfied that the refreshment room (bar) provided the following accommodations and facilities.—

[3][(i) a kitchen with sufficient accommodation either with exhaust fan or proper ventilator. The customers shall not pass through kitchen to go the toilet. Passage to the toilet shall be separate from the kitchen;

(ii) a separate room (Dining Hall) for serving the liquor alongwith meals or eatables for consumption. The space in the dining shall be so provided that not more than eight persons shall be accommodated in a built in floor area of 100 Sq. ft. (10x10) with a minimum of four feet space between the tables for the movement of customers and servers. Further, the total area of the Hall/Halls for dining shall not be less than 400 Sq. ft:

Provided that the minimum requirement of 400 Sq. fit, area for dining may be relaxed by the Deputy Commissioner of Excise in case of the licences existing on the dates of the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquor) (Amendment) Rules, 1993:

Provided further that in case the licensee desired to shift the licensed premises to any other premises from the premises in which the licence is existing on the date of the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquor) (Amendment) Rules, 1993, the above provisions shall apply without any relaxation.]

(iii) adequate seating arrangements;

(iv) separate toilet with running water facilities for men and women.

(b) No sale of liquor for removal from the premises shall be permitted under the licence. No liquor shall be sold to persons who

1. Sub-rule (8-B) inserted by Notification No. FD 12 PES 95(iv), dated 29-6-1996, w.e.f. 29-6-1996.
2. Sub-rule (9) substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
3. Items (i) and (ii) substituted by GSR 74, dated 15-4-1993, w.e.f. 1-7-1993.

have not part taken of meals or eatables served in the licenced premises:]

[1][Provided that no licence under this sub-rule shall be granted in any predominantly residential area.]

(10) **Auctioner's licences.**—(a) These licences shall be in Form CL-10 and shall be applied for and obtained from the Deputy Commissioner of the District.

(b) The licencee may be give sample bottles in respect of all consignments whether trade consignments or the property of private persons, in order that intending purchasers may have the opportunity of testing high class wines or spirits at their own houses before the auction sale.

(c) The licensee is authorised to sell the [2][Indian liquor (other than arrack)] or foreign liquor or both in less quantities than whole dozens of each description in the case of sales by auction of the property of private parties or estates, or of trade consignments which are alleged or otherwise unmerchantable.

(d) The licensee is authorised to sell by auction at places specified in the licence.

[3][(11) **Distributor licence.**—(a) A licence under this clause shall be granted by the Excise Commissioner for the whole of the State or any part thereof to deal in the products of all distilleries or breweries or wineries in the State or to import liquor from outside the State for the purpose of distribution or sale within the State or part thereof or to export liquor outside the State. The licensee shall establish such number of depots in different parts of the State, as the Excise Commissioner may specify in this behalf.

(b) The licence under this clause shall be issued only to such company owned or controlled by the State Government as it may specify.

(c) The licence shall be in Form CL-11 and shall be subject to renewal each year at the discretion of the Excise Commissioner.

(d) The Excise Commissioner may also permit the licensee to sell foreign liquor imported from outside India.]

[4][(11-A) **Distributor licence to sell foreign liquor.**—(1) A licence shall be granted by the Excise Commissioner for the whole of the State or any part thereof to directly import foreign liquor from outside India or to import foreign liquor from other authorised agencies outside the State of Karnataka but within India for the purpose of distribution of sale within the State of Karnataka, as the case may be.

1. Proviso inserted by GSR 74, dated 15-4-1993, w.e.f. 1-7-1993.
2. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Sub-rule (11) substituted by Notification No. FD 16 PES 2003(i), dated 30-6-2003, w.e.f. 30-6-2003.
4. Clause (11-A) inserted by Notification No. FD 15 PES 2001, dated 4-7-2001, w.e.f. 1-7-2001.

(2) The licence under this clause shall be issued only to such company owned or controlled by the State Government and which possesses an authorisation or import licence granted by the Government of India to import foreign liquor as specified by the Government.

(3) The licence shall be in Form CL-11A and shall be subject to renewal each year at the discretion of the Excise Commissioner.]

[1][(11-B) **Licence to sell confiscated liquor.**—(1) A licence under this clause in Form CL-11B shall be granted by the Deputy Commissioner, only to such companies owned or controlled by the State Government and specified by the Government for possession and to sell in retail to any person of the liquor seized or confiscated under the Karnataka Excise Act, 1965 and Rules framed thereunder and found fit for human consumption.]

[2][(11-C) **Retail shop licence issued to Government Companies.**—(1) Notwithstanding anything contained in Rule 12, a licence under this clause in Form CL(11-C) shall be granted by the Deputy Commissioner, only to such companies owned or controlled by the State Government and specified by the Government, for possession and sale of liquor in retail shops with a condition that such shops shall be exclusively maintained by them and shall not be transferred and sub-leased to others. Consumption of liquor within the licensed premised shall not be allowed under this category of licences.]

[3][(12) **Licence for retail sale of bottled toddy.**—Licence for the retail sale of bottled toddy may be granted with the previous sanction of the Excise Commissioner in Form CL-12 by the Deputy Commissioner of the District, on payment of the licence fee specified in Rule 8 and on such terms and conditions as may be specified in the licence and on such other conditions as the Excise Commissioner may, from time to time, specify.

[4][(13) **Arrack depot licence.**—The Deputy Commissioner may, with the previous sanction of the Excise Commissioner, grant arrack depot licence in Form CL-13, to a person who has obtained a lease of the right of retail vend of arrack for storage of bottled arrack of the approved sizes affixed with excise lables obtained from the licensed warehouse or Depot, on payment of fee specified in Rule 8, subject to the terms and conditions specified in the licence and on such other conditions as the Excise Commissioner, may specify from time to time.]]

[5][(14) **Licence for running duty-free shop at International Airport.**—Licence for retail sale of foreign liquor to *bona fide* International Air Passengers transiting the [6][x x x] International Airport who are required to wait at the

1. Clause (11-B) omitted by Notification No. FD 06 PES 2011, dated 1-8-2014, w.e.f. 1-8-2014.
2. Clause (11-C) inserted by Notification No. FD 14 PES 2003(i), dated 30-6-2003, w.e.f. 1-7-2003.
3. Sub-rules (12) and (13) inserted by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
4. Sub-rule (13) omitted by Notification No. FD 06 PES 2011, dated 1-8-2014, w.e.f. 1-8-2014.
5. Sub-rule (14) inserted by Notification No. FD 2 PES 2001, dated 22-2-2001, w.e.f. 22-2-2001.
6. The word "Bangalore" omitted by Notification No. FD 3 PES 2008, dated 22-11-2008, w.e.f. 22-11-2008.

airport transit lounge reserved for such passenger before resuming their journey shall be granted with the prior sanction of the Excise Commissioner in Form CL-16 by the Deputy Commissioner of the District on payment of fee as specified in Rule 8 and as such terms and conditions as the Excise Commissioner may specify from time to time.]

[1][(15) **Refreshment Room (Bar) Licence at International Airport.**—Licence under this clause, for refreshment room (bar) for sale of Foreign Liquor or Indian Liquor or both, combined with supply of meals or eatables in.—

(a) an area common for the domestic and international air passengers and *bona fide* users shall be granted in Form CL-17; and

(b) an area exclusively meant for international air passengers shall be granted in Form CL-18;

of an international airport, by the Deputy Commissioner of the District concerned on payment of a fee as specified in Rule 8 and on such terms and conditions as the Excise Commissioner may specify from time to time.]

CASE LAW

R. 3 — Standing Circular No. 141, Para 3(c) — C.L. 2 Licence holder to purchase only from C.L. 1 Licence holder of his district; not permissible to puchase from C.L. 1 Licence Holder outside the district — Explained. — *Bhagyalakshmi Wines Stores and Another v State of Karnataka and Others*, **1989(3) Kar. L.J. 326.**

R. 3(2) — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Amendment) Rules, 1997 — Distributor licence — Amendment liberalising grant of — Provision restricting distributorship to company owned or controlled by State Government, validity of which has been upheld by Apex Court, sought to be diluted and water down by making amendment, permitting appointment of more than one distributor for distillery, brewery or winery either for whole or part of State — Amendment made to nullify effect of judgment of Apex Court is liable to be quashed.

R.P. Sethi, CJ. and A.M. Farooq, J., Held: In the instant case while upholding the validity of 1989 rules, the Supreme Court rejected all the pleas of the manufacturers and distilleries of the IMFL which have been now made a basis for repealing of the 1989 rules. Upholding the validity of the impugned rules would amount to setting aside of the Apex Court judgment in *Khoday Distilleries* case. What the distilleries and manufacturers of liquor could not achieve in a Court of law, they have clandestinely succeeded to obtain by virtue of the impugned rules. The impugned rules if permitted to remain on the statute book would not only be contrary to the directions of the Supreme Court but would be a negation of the rule of law. The impugned rules have not been referred to any reasonable basis or justification. The impugned rules are not only unconstitutional, illegal, *mala fide*, initiated at the instance of the manufacturers and distilleries of IMFL is conspiracy with some bureaucrats

1. Sub-rule (15) inserted by Notification No. FD 3 PES 2008, dated 22-11-2008, w.e.f. 22-11-2008.

but also against the general public interest resulting in huge losses not only to the State Exchequer but to MSIL, admittedly a public undertaking and a Government Company. — *K.V. Amarnath and Another v State of Karnataka and Others*, **1998(5) Kar. L.J. 62D (DB).**

Rule 3(2) — Constitution of India, Articles 226 and 227 — Allegation of selling spurious and adulterated liquors made against licensee — Suspension of licence in Form CL-2 pending enquiry into — Writ petition challenging order of suspension of licence on ground that opinion formed by Deputy Commissioner that licensee was in possession of spurious and adulterated liquor was without basis as the report of chemical analyst does not disclose anything harmful to consumers in liquor alleged to be spurious and adulterated, seized from licensee — However, in view of fact that opinion formed by authority for suspending licence is based on *prima facie* material and it for that authority to take note of Chemical Analyst's report at time of enquiry, matter is not one to be interfered with in exercise of judicial review — Direction, however, lies to authority to complete enquiry within two months.

B.S. Patil, J., Held: This is not a case of cancellation of licence, but of suspension of the licence pending enquiry. The opinion formed by the Deputy Commissioner, as is evident from the impugned order, is based on *prima facie* material placed before him. What is the effect of the report of the Chemical Analyst, is a matter to be taken note of at the time of enquiry. Therefore, the writ petition is dismissed. . . . . . However, in view of the petitioner apprehending that the disposal of the case may get delayed before the Deputy Commissioner, I deem it appropriate to direct the Deputy Commissioner to conduct necessary enquiry and complete the same within a period of two months from the date of receipt of a copy of this order. — *Smt. Lalithamma v State of Karnataka and Others*, **2010(1) Kar. L.J. 669.**

Rule 3(2) — Constitution of India, Articles 226 and 227 — Retail shop licence — Breach of terms and conditions of — Cancellation of licence for — Concurrent finding of fact by three authorities, *viz.*, Deputy Commissioner (Excise), Commissioner of Excise and Tribunal, that illicit liquors were manufactured and smuggled liquors were sold by servants of licensee in licensed premises — Whether to compound offence or to cancel licence is matter of discretion of authority — Where authority has chosen to cancel licence on basis of such finding, decision of authority cannot be interfered with in exercise of writ jurisdiction.

It reveals from the specific finding given by the Commissioner of Excise that it is a fact that the duplicate liquor and the non-duty paid liquor were found in the storeroom belonging to the CL-2 licensed premises. Therefore, to make a distinction that the same was few metres away from the licensed premises does not hold much water. Whether to compound the offence or cancel the licence is the subjective satisfaction of the Deputy Commissioner who is the licensing authority has passed a well-considered order dismissing the appeal filed by the petitioner. The Karnataka Appellate Tribunal also dismissed the appeal holding that as per Section 29, it is very much evident that if any of the servants who is acting on behalf of the licensee either with

his express or implied permission, then also the licence is liable to be cancelled or suspended. Therefore, it cannot be held that the servants are responsible for the crime and not the licensee. Section 29(b) of the Karnataka Excise Act gives sufficient powers to the licensing authority to cancel the licence for breach of licence condition. Once the Competent Authorities have recorded a concurrent finding of fact, this Court cannot exercise its extraordinary jurisdiction under Article 226 of the Constitution of India. At one stage, the petitioner herself has admitted in unequivocal terms in writing that her servant has committed a mistake and she is ready to pay the penalty and the value of the commodity seized. Thereafter, she changed her version in the objections filed to the show-cause notice.... Having regard to the facts and circumstances of the case there is no error of law or material irregularity in the impugned orders. — *Smt. Jayamma v The Commissioner of Excise in Karnataka, Bangalore and Others,* **2003(5) Kar. L.J. 272.**

Rule 3(9) — Bar licence — Cancellation for unauthorised transfer of — Transfer involves parting with ownership of business of running bar for which licence was granted, and transfer becomes unauthorised attracting penalty of cancellation of licence, only if transfer has been effected without previous permission of designated authority and without payment of requisite transfer fee — Act does not contemplate that licensee must himself run bar by being present on premises all time — He is not prohibited from managing business through servant or agent — Power of attorney simpliciter granted to agent to manage business does not amount to transfer of business to agent — Unless there is finding that licensee has divested himself of ownership of business, licence cannot be cancelled — Cancellation of licence in absence of such finding, held, amounts to wrongfully preventing licensee from carrying on her business.

Rule 17 of the Karnataka Excise Licences (General Conditions) Rules, 1967 provides that the right of retail vend of liquor shall not be transferred by the licensee except with the previous permission of the Deputy Commissioner. Rule 17-A provides that in the event of death of the licensee during the currency of the licence, the Deputy Commissioner may, on an application by the legal heirs of the deceased with the previous sanction of the Excise Commissioner, transfer the licence in their favour. Rule 17-B provides for transfer of licences. It provides that in regard to licences issued for sale of Indian liquor or foreign liquor or both, in Form No. CL-1 or CL-2 or CL-7 or CL-9 under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, the Deputy Commissioner may on an application by the licensee and subject to payment of transfer fee equivalent to the annual licence fee specified and with the prior approval of the Excise Commissioner, transfer such licence in favour of any person named by such licence, if such person is eligible for grant of a licence..... The State has the exclusive privilege and right of manufacturing and selling intoxicating liquor. Grant of a CL-9 licence is a privilege or permission granted by the State to the licensee to sell liquor in the manner prescribed in the licence. Parting with the possession and control of the business covered by the CL-9 licence would amount to transfer of such privilege and licence and such an act without the permission of the licensing authority, will be illegal and violative of the terms of licence.

But, if the licensee retains possession and control, but only authorises a servant or an agent to manage the business on his behalf, there is no illegality or infringement of the conditions of licence. In fact clauses (b) and (c) of sub-section (1) of Section 29 contemplate the business of a licensee being run by any agent or servant with the express or implied permission or authority of the licensee..... A general power of attorney is executed as a matter of convenience. By executing such a power of attorney, the executant [principal] provides for management of his affairs/business/properties, by the agent. A power of attorney is normally executed when the executant is not personally able to attend to his affairs/business due to absence or due to incapacity or other preoccupation. The acts of the agent are binding on the principal. In spite of the absence of the principal (executant) granting the power of attorney, the possession and control of the affairs/business remain with the principal. A general power of attorney granted to an Agent to manage the business of the principal does not create any right, title or interest in the asset or business which is the subject-matter of the power of attorney, in favour of the attorney holder. Power of attorney is revocable at the will and pleasure of the principal. In short, under a general power of attorney simpliciter [either general or special], there is a mere authority to act, unaccompanied by any interest of the agent in the subject-matter of the power of attorney. A common example of such power of attorney is what is granted by a member of family, to another family member to run/manage the business/affairs of the grantor..... When companies and firms can apply and obtain licences and run the business through their authorised agents or employees, there is nothing *per se* objectionable about a person giving a general power of attorney to his family member or friend, or an employee, to run a Bar and Restaurant. A company or firm or individual may own a chain of Restaurants all over the country or State and may grant a power of attorney to an agent/employee to look after the day-to-day management and to apply for licence every year. Mere execution of a power of attorney by the licensee to a family member or employee or friend, cannot lead to suspension or cancellation of the licence or refusal to grant or renew the licence..... Thus, only if it is established that the possession and control of the licensed business has been transferred to someone else, or that the licensee has not retained any control over the licensed business, or where there is a transfer of licence without permission, the licence will be liable to be cancelled. On the other hand, if the licensee continues to have control of the licensed business, but runs the business through a servant or an authorised agent, (that is attorney holder) then there is no violation of the terms and conditions of licence, irrespective of whether the licensee lives in the city/place where the business premises is situated. The question of cancellation of the licence will not arise, in such a case..... In this case, there is no finding that the licensee petitioner has parted with the possession of the licensed premises or the control of the business to anyone else, in particular to the power of attorney holder. Nor has the licence been transferred by the petitioner to anyone else. The power of attorney was granted to a family member, even prior to the date of the licence being transferred from the name of the petitioner's mother to the petitioner. The petitioner obtained transfer of the licence from the name

of her mother to her name by making an application through the said power of attorney holder. Grant of a power of attorney by a licensee to a family member, to manage the affairs or business of the licensee, cannot be considered as parting with the possession or transferring the control or transferring the licence to someone else. The third respondent has completely overlooked this aspect of the matter and has misconstrued the observations of this Court in *Mahabala's* case. . . . Hence, the petition is allowed. Consequently, the petitioner will be entitled to continue her business. She will also be entitled to claim appropriate refund of licence fee in regard to the period during which she has been wrongfully prevented from carrying on the business by the impugned order. — *Geetha v State of Karnataka and Others*, **2000(2) Kar. L.J. 383.**

Rule 3(9)(a) and 3(9)(b) — Powers of Corporator — On his representation — Liquor shop was ordered to be shifted — Such orders challenged — Both the Excise Authorities rejected plea of petitioner — Held, appeal is remanded to the Excise Commissioner and stayed impugned order found at Annexure-J.

B.S. Patil, J., Held: The Deputy Commissioner of Excise, had passed an order permitting the petitioner to shift to the present place imposing a condition that in case any objections were to be raised, the order permitting shifting was liable to be recalled. Accordingly, petitioner moved to the present premises. Respondent 3 herein who is a local Corporator insisted that the petitioner should occupy some other premises. Objections were also raised by the members of the public. A report of the Deputy Superintendent of Police was obtained. Based on the same, Annexure-J — order came to be passed holding that the petitioner has to shift the shop to another suitable building, in view of the public nuisance likely to be caused and in the interest of public peace. . . . . . It is thus clear that the Tribunal has misdirected itself in interpreting Rule 5 of the Karnataka Excise Licences (General Conditions) Rules, 1967, in as much as, the restriction contemplated in Rule 5 is that insofar as residential localities are concerned, if such localities are predominantly inhabited by members of Scheduled Caste and Scheduled Tribe, then no licence for liquor shop shall be granted. The Rule cannot be interpreted as to lay down a total embargo for complete prohibition for granting such licence in any residential area. . . . . . The matter is remanded to the Excise Commissioner for fresh consideration. . . . . The Court find it just and appropriate to direct the Commissioner to dispose of the appeal expeditiously, which will be subject to the result of the order to be passed by the Excise Commissioner. Until the disposal of the appeal, the order under challenge Annexure-J shall stand stayed. — *S.C. Srinivasa v The Commissioner of Excise in Karnataka, Bangalore and Others*, **2013(2) Kar. L.J. 189.**

R. 3(11).— There is no manifest arbitrariness in prescribing a distributor licence which can be granted only to a company owned by the State and compelling the manufacturer to sell their product to the distributor.

A distributor licence is prescribed under Rule 3(11). A licence either for manufacture or sale of liquor is prohibited from selling liquor to anyone

other than the holder of a distributor licence. The rule provides that a distributor licence shall be issued only to such company owner or controlled by the State Government as the State Government may specify. A distributor licence, is only a licence to deal in liquor by sale and purchase of liquor. This activity is not something different from what is contemplated under the Act itself or in respect of which the rule making authority has been delegated to the State. The mere fact that a monopoly of distributor licence is sought to be created, does not take the licence outside the ambit of the Act. The Act itself provides that the number of licences can be regulated by the State. If the State chooses to regulate licences by providing that the licence shall be granted only to a company owned by the State, it cannot be said that such a licence is something which is outside the purview of the Act or the rule making authority of the State under the Act. The tests of arbitrary action which apply to executive action do not necessarily apply to delegated legislation. In order that delegated legislation can be struck down, such legislation must be manifestly arbitrary; a law which could not be reasonably expected to emanate from an authority delegated with the law-making power. A subordinate legislation may be questioned under Article 14 on the ground that it is unreasonable, 'unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary'. Arbitrariness is not a separate ground since it will come within the embargo of Article 14. But subordinate legislation must be so arbitrary that it would not be said to be in confirmity with the statute or that it offends Article 14. Though there is no fundamental right in a citizen to carry on trade or business in liquor; and the State under its regulatory has the power to prohibit absolutely every form of activity in relation to intoxicants, such as its manufacture, storage, export, import, sale and possession; nevertheless when the State decides to grant such a right or privilege to others, the State cannot escape the rigour of Article 14. But, while considering the applicability of Article 14 in such a case, the Court would be slow to interfere with the policy laid down by the State Government for grant of licences for manufacture and sale of liquor. In view of the inherently pernicious nature of the commodity large measure of latitude should be allowed to the State in determining the policy of regulating manufacture and trade in liquor. Moreover, the grant of licence for manufacture and sale in liquor, would essentially be a matter of economic policy where the Court would hesitate to intervene and strike down what the State has done unless it appears to be plainly arbitrary, irrational or *mala fide*. It has to be examined whether there is any manifest arbitrariness in prescribing a distributor licence which can be granted only to a company owned by the State; and in compelling the manufacturers to sell their product to the distributor. On the ground that distributor may act arbitrarily or capriciously and may purchase or not purchase liquor at its own sweet-will. Once the rules oblige the manufacturers to supply their product only to the company holding the distributor licence, a corresponding duty is cast on the distributor to place orders with the suppliers concerned whenever demand for a particular product is received by it.

It was also contented that since the first sale will be within the State, a substantial rebate in excise will be lost and the goods manufactured by will

become more expensive and will become much less competative in the outside market. Any concession which is granted by the State for export sales or inter-State sales is a matter of policy. Granting of such concession or absence of such concession cannot make the rule itself manifestly arbitrary or unreasonable or violative of Article 14. All manufacturers and suppliers within the State are governed by the same rules and will, therefore, have to pay the same taxes. All persons who are similarly situated are similarly affected by the amended rules. Therefore, there is no discrimination under Article 14 in its traditional sense. So long as the policy is not arbitrary or wholly unreasonable, it cannot be considered as violative of Article 14.— *M/s. Khoday Distilleries Limited etc. v State of Karnataka and Others,* **AIR 1996 SC 911.**

Rule 3(11)(b) — As amended on 13-9-1989 — Companies Act, 1956, Sections 433(e) and 434 — Liquor manufactured in State — Appointment of Government Agency as sole distributor of — Authority given to agency to collect reasonable margins not exceeding 5% of sales — Loss of margin money suffered by Agency during stay of operation of rule pending disposal of litigation — Since, under prevalent trade practice and also under Government Order appointing Agency as sole distributor, such margin money is payable by vendees of agencies, its claim against manufacturing Company, for loss of margin money cannot be enforced, and its petition for winding up of manufacturing Company for not conceding demand is misconceived and not *bona fide.*

The letter dated 13-11-1989 by which MSIL had been declared as the sole distributor of liquor in the State and it is clearly stipulated therein "that MSIL shall be entitled to charge reasonable margins not exceeding.... 5% on sales within the State". Reasonable margin is a margin which the distributor collects from the person to whom he sells. It is thus clear that MSIL could collect margin money from the wholesalers and retailers to whom liquor was sold. The Company is a manufacturer of liquor and MSIL was not selling liquor to it. MSIL itself clearly understood the Government letter to mean that margin money was payable to it by the wholesalers. MSIL in its letter dated 4-5-1993 addressed to the Company made a grievance that the latter was giving direct supplies of liquor to the wholesalers which acted as a deterrent on the wholesalers from purchasing liquor from MSIL because they had to pay 5% more. . . . The claim made by MSIL against the Company on the basis of the Government letter dated 13-11-1989 is clearly misconceived and not *bona fide.* No amount could be recovered from the Company on the basis of this letter. If at all any amount could be recovered on the basis of that letter it could be only from the wholesalers and retailers to whom liquor had been sold. . . . . The amount claimed by MSIL is also disputed on the ground that as per the trade practice which is followed consistently, the margin money is payable by the wholesalers/retailers to whom liquor is sold and it is never paid by the manufacturer. If such a practice is prevalent, no amount is payable by the Company. Whether such a practice is prevalent or not is a matter of evidence and in the very nature of things such issues could not be decided on summary proceedings in a winding up petition. — *Mysore Sales*

International Limited, Bangalore v United Breweries Limited, Bangalore, 2005(6) **Kar. L.J. 615B (DB).**

Rule 3(11)(b) — As amended on 13-9-1989 — Companies Act, 1956, Sections 433(e) and 434 — Liquor manufactured in State — State Government appointing Agency as sole distributor of — Authorisation given to Agency to collect reasonable margin money on sales effected by it — Petition filed by — Company manufacturing liquor challenging validity of amended Rule, and order of Apex Court upholding its validity and directing manufacturing Company to make good loss of margin money suffered by Agency on account of stay of operation of amended Rule pending disposal of litigation — Order of Apex Court is order *in personam* which is enforceable only against Company which was party to litigation, and not order *in rem,* enforceable against other companies who were not parties to litigation — Hence Company which was not party to litigation cannot be wound up for not making good loss suffered by Agency on account of stay of operation of amended Rule.

The interim order passed by the Supreme Court was not an order *in rem* but it was an order *in personam.* It is true that when the operation of the Rules was ordered to be stayed during the pendency of the appeals in the Supreme Court the Company and several others took advantage of the same even though they were not parties before the Supreme Court because the authorities had been restrained from giving effect to the Rules and not because the order was passed *in rem.* When the authorities did not implement the Rules, the benefit accrued to all and sundry but the conditions which were imposed by the Supreme Court while granting the interim order were operative only between the parties and not on others. Only Khoday Distilleries Limited and others who were parties before the Supreme Court were bound by those conditions and may be they were required to pay margin money/commission to MSIL in terms of the directions contained in para 21 of the judgment in *Khoday Distilleries* case. The Company which was not a party before the Supreme Court was neither required to maintain its accounts nor was it required to supply a copy of the same to MSIL and nor was it required to pay any amount thereunder to MSIL. Therefore, MSIL could not make a claim for the payment of any money from the Company on the basis of the interim order or the final order passed by the Supreme Court in the aforesaid cases. — ***Mysore Sales International Limited, Bangalore v United Breweries Limited, Bangalore,* 2005(6) Kar. L.J. 615C (DB).**

Rule 3(11)(c) — Constitution of India, Articles 226 and 227 — Writ petitions filed praying to strike down Rule 3(11)(c) as amended by Notification dated 30-6-2003 as illegal and unconstitutional — Held — Sale of liquor is neither a fundamental right nor a question of arbitrariness which can be questioned — When State intends to promote business through organised sectors, companies owned by the State, the granting of licences to MSIL cannot be held to be arbitrary — With regard to fixing of exhorbitant fee in respect of private dealers, Government directed to consider representations of petitioners and to take decision to maintain uniformity in

the matter of charging licence fee between private owners and the Government owned companies.

Huluvadi G. Ramesh, J., Held: In view of the legal position and also, since it is settled in various other cases that sale of liquor is neither a fundamental right nor a question of arbitrariness which can be questioned, and also when the State intends to promote business through organised sectors namely, the companies owned by the State, the granting of licences to the MSIL cannot be held to be arbitrary and, the rule enabling grant of some more licences in the interest of public health or general order and thereby, grant of some more CL-2 licences through MSIL, cannot be held to be bad. . . . . . Insofar as charging of licence fee as per Rule 8 of the Rules is concerned, of course, in the case on hand, for CL-2 licence it is charged at Rs. 1 lakh for MSIL, *i.e.*, State owned company's licence holders, whereas, for individual licensees it is being charged at Rs. 7 lakhs and odd within the City Municipal Corporation. The procedure adopted by the State does not stated to reason as to why such a licence fee has to be enhanced when both CL-2 private licence holders as well as State owned companies are to run similar business and also when simultaneously, by a Rule, it has fixed the minimum margin profit of 10% from 20% which was fixed earlier. In the circumstances, it is for the State to reconsider the charging of licence fee to various places as indicated in Rule 8 and it is for the petitioners to give representations to the Government so that the Government shall take decision to maintain uniformity in the matter. Since it is not that the private dealers would take over the public company business, as such, there is no rationale in fixing exorbitant fee in respect of private dealers. However, without quashing the rules framed in 2007, the Government shall consider the representations of the petitioners to maintain uniformity in the matter of charging licence fee since it appears to be causing hardship to run the business and also to eke out their livelihood. Since from time to time, the licence fee would be enhanced/revised, when the margin of profit has been reduced from 20% to 10%, such a revision must be proportionate to the business and the profit thereon. . . . . . Further grievance of the petitioners is, there is no provision for grant of fresh licences under Rule 5 of the Rules as per the policy made by the State on 3-9-2003 in not granting any fresh licences. But, subsequently, it has taken a decision to grant fresh CL-2 licences to MSIL, the State owned company. However, once again the answer for this is, the decision of the Apex Court in *M/s. Khoday Distilleries Limited's* case and also the decision in *Nashirwar v State of Madhya Pradesh and Others*, AIR 1975 SC 360 : (1975)1 SCC 29, wherein the Apex Court has held that, the State has the exclusive right and privilege of manufacturing and selling liquor. It can auction licences for carrying on business of selling liquor and a citizen has no fundamental right to do business in liquor. . . . . .It is stated that one of the purpose of regulation is to raise revenue to the State by granting licences to the State owned companies and while exercising monopoly or privilege, the State felt it proper to give more number of licences to the State owned company to regulate business in liquor. Although a policy was brought in during 2003 to restrict issuance of CL-2 and CL-9 licences, however, it shall not bar the issuance of licences in favour of the State owned companies and the business carried on by the State is to earn revenue for the

State as limited revenue would be generated in case of private CL-2 or CL-9 licence holders since the margin profit is fixed. For the purpose of generating revenue, when the State has taken a decision to give more number of CL-2 licences to the State owned companies, that cannot be said either discriminatory or arbitrary and no quota could be fixed for issuance of licences to the Government owned companies by the Commissioner of Excise and it applies only to private individuals. — *B. Martin and Others v State of Karnataka and Others*, **2011(3) Kar. L.J. 16.**

[1][**3-A. Licensee to purchase liquor only from notified depots of the Distributor Licensee.**—The Excise Commissioner shall notify from time to time the area of operation and jurisdiction of each Depot of the Distributor Licensee for the purpose of sale of liquor to the licensees whose shops are located in such notified area. Any person holding a licence in Form CL-2, CL-4, CL-5, CL-6, CL-6A, CL-7, [2][CL-7D], CL-9, CL-14 [3][or CL-15, CL-16, CL-17 or CL-18] issued under these rules shall purchase liquor only from such notified depots of the Distributor Licensee.]

4. Application for licence.—[4][(1) Any person desiring to obtain.—

(a) a distributor licence or a distributor licence to sell foreign liquor shall make the application to the Excise Commissioner; and

(b) any licence other than distributor licence and distributor licence to sell foreign liquor shall make the application to the Deputy Commissioner of the concerned district where the licence has to be sanctioned in Form CL-1A.]

(2) The application shall contain the following particulars namely.—

(i) Name and address of the Applicant;

(ii) If the applicant is a company or a firm, the names and addresses of all the Directors or partners of the company or firm;

(iii) Location of the premises where the applicant intends to conduct the business under a licence;

[5][(iv) If the sale is in more than one district, the names of districts.]

[6][(3) x x x x x.]

1. Rule 3-A substituted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.
2. Inserted by Notification No. FD 14 PES 2013, dated 9-6-2014, w.e.f. 9-6-2014.
3. Substituted for the word, letters and figures "or CL-15" by Notification No. FD 3 PES 2008, dated 22-11-2008, w.e.f. 22-11-2008.
4. Sub-rule (1) substituted by Notification No. FD 15 PES 2001, dated 4-7-2001, w.e.f. 1-7-2001.
5. Clause (iv) of sub-rule (2) inserted by GSR 344, dated 14-10-1976, w.e.f. 28-10-1976.
6. Sub-rule (3) omitted by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016

CASE LAW

Rules 4 and 5 — Retail shop — Grant of licence in Form CL-2 for running of — Condition regarding location — Premises where applicant intends to conduct business under licence must be specified in application, and if premises is found suitable, licence can be granted — Consent of owner of premises, when applicant himself is not owner, is not requirement for grant of licence — Once consent of landlord is obtained for issue of licence, his further consent is not necessary for renewal of licence every year — Licence granted cannot be revoked merely because landlord has chosen to withdraw his consent.

V.K. Singhal, J., Held: The licence has to be granted by the Excise Authorities on the basis of fulfilling the requirements of the Act and the Rules made thereunder. Though the requirement of any consent of the landlord is not specifically there, but for administrative convenience it has been obtained as in the present case. Once the consent is obtained for, thence for the subsequent period it is not necessary that such consent has to be obtained for renewal of licence every year. Grant of licence cannot be regulated by the whim of the owner of the premises. There is no provision under the Act or the Rules for refusal or cancellation of the grant of licence or renewal in a situation when subsequently the landlord changes his mind. The whim of the landlord would not determine the fate of the tenant. The question whether there is a valid lease or tenancy in existence cannot be examined in the proceedings under Article 226 of the Constitution when a suit is also pending. The right of the tenant does not come to an end automatically with the termination of lease/tenancy. In these circumstances, there is no case made out for interference under the extraordinary jurisdiction under Article 226 of the Constitution. — *B.C. Narasimha Murthy v The Commissioner of Excise, Bangalore and Others,* **1998(5) Kar. L.J. 491A.**

R. 4(2)(iv) — Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules, 1967, Rule 4 — Licence in Form CL-1 to wholesalers — Condition No. 2 of licence — Wholesaler to sell liquors only within area specified in licence — Retailer holding CL-2 licence has necessarily to purchase liquor from only such wholesaler who has licence to sell within area — Retailers in Bangalore Rural District purchasing liquor from wholesalers in Bangalore Urban District whose CL-1 licence permits him to sell liquor in Bangalore Rural District as well — Such retailers are entitled to be given transport permits for transporting purchased liquor to their licensed premises.

G.C. Bharuka, J., Held.—Since as per Condition No. 2 of his licence in CL-1, a wholesaler can sell liquor only within the area specified in his licence, it is necessarily follows that a retailer of the said district only can purchase liquor from such in wholesaler. In the present cases, it has been brought on record that some of the wholesaler of Bangalore Urban District have been granted licence to effect sale in Bangalore Rural District as well. In that view of the matter as per the law laid down, the present petitioners are entitled to make purchases from the said wholesale dealers. Since purchases in question of the petitioners will be in accordance with law, respondents are statutorily bound

to grant them permits for transportation of the purchased stock of liquor to their licensed premises in terms of Rule 4 of the Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules 1967 provided all the other terms for issuance of such permits as contemplated under law or complied with. — *M. Venkataramaiah v State of Karnataka and Others,* **1996(5) Kar. L.J. 579.**

Rule 4(3) — Karnataka Excise Act, 1965, Section 71 — Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 — As amended in 1992 with effect from 1-7-1992 — Licence — Application for grant or regrant of — Rule requiring application to be accompanied by up-to-date Sales Tax Clearance Certificate issued by Department of Commercial Taxes as condition for considering application — Rule, held, is beyond rule making power of State Government and is unenforceable, as levy and collection of sales tax is not one of purposes to be achieved under Excise Act.

R.V. Raveendran, J., Held.—Firstly, levy and collection of sales tax is not one of the purposes sought to be achieved under the Excise Act. Secondly, the Karnataka Sales Tax Act does not provide that a licence holder under the Excise Act should not be a defaulter of sales tax for the purpose of grant of licence under the Excise Act. Thirdly, neither the Sales Tax Act nor the Excise Act define what is a Sales Tax Clearance Certificate. . . . It is declared that Rule 4(3) of the Rules is beyond the rule making power of the State Government and it is unenforceable. Rule 4(3) of the said Rules is hereby struck down. Consequently, the Authorities enforcing excise laws will not be entitled to insist on production of Sales Tax Clearance Certificate as a condition for accepting an application or for granting licence under the Karnataka Excise (Sale of Indian and Foreign Liquor) Rules, 1968. — *Bhanu Liquor Shop, Banuvalli, Harihar Taluk v State of Karnataka and Others,* **2000(5) Kar. L.J. 512.**

[1]**[4-A. Registration of Application.**—(1) The Excise Commissioner or Deputy Commissioner, as the case may be, shall register every application immediately on its receipt in the register prescribed. If the application does not contain the prescribed particulars or otherwise is not in order, the Excise Commissioner or Deputy Commissioner shall return such application to the applicant for re-submission under a written endorsement. If the applicant fails to re-submit such application within fifteen days from its receipt from the Deputy Commissioner such application shall be deemed to have been rejected.

(2) Every application received under sub-rule (1), shall be entered in the register prescribed and shall be allotted a registration number in the serial order specifying the time and date of its receipt.

(3) The Deputy Commissioner shall consider and dispose applications received under sub-rule (1), having regard to their date or receipt.]

1. Rule 4-A inserted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

[1][4-B. **Disqualification.**—(1) A person shall be disqualified from submitting an application for obtaining or renewal of licence under these rules if he.—

(i) has not paid the arrears of any excise dues in respect of liquor sold by him;

[2][(ii) has not produced a valid income-tax clearance certificate or has not produced any document in proof of filing the latest income-tax return before the Income-tax Department in respect of his income;]

(iii) is holding an office of profit under the State Government or Central Government;

(iv) is a minor or an undischarged insolvent or is of unsound mind;

(v) has been convicted of any cognisable and non-bailable offence under any Act, or any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 and Medicinal and Toilets Preparation (Excise Duties) Act, 1955, or an offence under Section 481, 482, 483, 484, 485, 486, 487 or 489 of the Indian Penal Code, 1860.

Explanation.—For the purposes of this rule, a company, firm or other body corporate shall be deemed to have incurred the disqualification if the person in charge of and responsible for the conduct of the business of such company, firm or other body corporate has incurred the disqualification.

[3][Provided that the authority which grants or renews the licence may in the interest of revenue and for any other reason to be recorded in writing relax the provisions of clause (i) and grant or renew the licence.]

(2) A person shall not be disqualified under clause (i) of sub-rule (1) if he produces a certificate from a competent Revenue or Excise Officer to the effect that the arrears have been paid.]

[4][5. **Grant of Licence.**—On receipt of the application under Rule 4, [5][and subject to the provisions specified in Rule 4-A] the Deputy Commissioner or the Excise Commissioner, as the case may be, may require such other particulars as he may deem necessary and may make inquiries for verification of the particulars furnished by the applicant and also such other inquiries as he deems fit. If the Deputy Commissioner or the Excise Commissioner, as the case may be is satisfied that there is no objection to grant the licence applied for, he may grant the licence on payment of the fee prescribed under Rule 8 for such licence:

1. Rule 4-B inserted by Notification No. FD 15 PES 99(i), dated 24-6-2002, w.e.f. 24-6-2002.
2. Clause (ii) substituted by Notification No. FD 15 PES 99(i), dated 23-8-2002 and shall be deemed to have come into force w.e.f. 24-6-2002.
3. Proviso inserted by Notification No. FD 15 PES 99(i), dated 23-8-2002 and shall be deemed to have come into force w.e.f. 24-6-2002.
4. Rule 5 substituted by GSR 344, dated 14-10-1976, w.e.f. 28-10-1976.
5. Inserted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

Provided that no such licence shall be granted by the Deputy Commissioner except with the previous sanction of the Excise Commissioner.]

[1][Provided further that while considering the applications for grant of CL-7 [2][or CL-7D] licence, the Deputy Commissioner shall ensure that the applicant is in a position to provide good accommodation and facilities to the customers and the standard of refreshments, food and service are provided for. If the Deputy Commissioner is of the opinion that the hotel or the boarding house does not conform to the minimum standard required for running a hotel or boarding house or not suitable to grant licence, he may reject such application after giving reasons therefor.]

CASE LAW

R. 5 — Licence — Grant of.

Jagannatha Shetty, J.—A rival trader has no right to be heard before considering an application for licence. The grant of licence under the Excise Rules is not controlled by the population of the area — *Sardar Ratan Singh v Excise Commissioner*, **1974(2) Kar. L.J. Jr. 75 Sh.N. 287.**

Rule 5 — Original licence was issued — Writ seeking renewal of CL-2 licence — Due enquiry followed — Application for renewal under Rule 5-A for the year 2014-2015 filed — Deputy Commissioner called upon the petitioners to furnish copies of records of the building as well as the conversion order for diversion of the land over which the shop premises was constructed — Deputy Commissioner did not exercise of jurisdiction vested in him — Held, petitions are allowed in part and the Deputy Commissioner is directed to consider petitioners' application for renewal of CL-2 licence.

Ram Mohan Reddy, J., Held: Petitioners when issued with CL-2 licence after due enquiry and following Rule 5 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, filed an application for transfer of licence from Kundapur to Udupi in the year 2009, whence Deputy Commissioner having regard to Rule 23 of the Karnataka Excise Licences (General Conditions) Rules, 1967 and Rule 5 over restriction of location of the shop permitted the shifting to Udupi. Thereafterwards, on an application under Rule 5-A of the Rules, licence was renewed for the years 2010-2011, 2011-2012, 2012-2013 and 2013-2014. . . . . . The fact that the Deputy Commissioner did not exercise a jurisdiction vested in him under Rule 5-A to dispose of the petitioners' application before 30-6-2014 is a clear indicator of denial of the petitioners' right of renewal. Although learned HCGP submits that there is no denial of exercise of jurisdiction, yet again, I am afraid the very fact that he did not exercise jurisdiction vested in him before 30-6-2014 tantamounts to non-exercise of jurisdiction vested in him, calling forth interference. – *Smt. Saritha S. Hegde and Another v The Deputy Commissioner, Udupi District, Manipal and Another*, **2014(4) Kar. L.J. 365.**

1. Second proviso to Rule 5 inserted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
2. Inserted by Notification No. FD 09 PES 2014(1), dated 15-12-2014, w.e.f. 16-12-2014

[1][5-A. **Renewal of licence.**—(1) The Excise Commissioner or the Deputy Commissioner, as the case may be, may on an application made to him along with the licence fee prescribed in Rule 8 renew the licence granted under these rules [2][except wholesale licence granted in Form CL-1 or Form CL-1 (Beer), for the period commencing from 1st July, 2006.].

(2) Every such application shall be made at least one month before the expiry of the licence already granted:

Provided that the Excise Commissioner or the Deputy Commissioner, as the case may be, may accept and consider any such application made after the aforesaid period of one month, if he is satisfied that the applicant had sufficient cause for not making the application within that period.

(3) The licences granted prior to the first of July, 1999 may be renewed at the discretion of the Excise Commissioner or the Deputy Commissioner, as the case may be on payment of 50% (fifty per cent) of the fee prescribed under Rule 8 in respect of the entire period for which licence was not granted, for the purpose of maintaining continuity of the licences:

Provided that while renewing the licence under this sub-rule the Deputy Commissioner or the Excise Commissioner, as the case may be shall ensure that the total number of licences granted or renewed do not exceed the quota fixed in Rule 12, for grant of each kind of licence for an area.]

CASE LAW

Rule 5-A — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Second Amendment) Rules, 2000 — Licence — Grant or renewal of — It has to be granted or renewed for whole excise year, and not for fraction of excise year — Renewal of licence for only three months after collecting licence fee for whole excise year, held, bad in law.

It is not in dispute that the authorities have no power to renew the licence for a break up period. When the Rule provides that the licence has to be renewed from one excise year to another excise year the respondents have granted licence only for a period of three months after collecting the licence fee for the whole year. The respondents- authorities have no right to collect the licence fee for a break up period under the Act. When they have no right to collect the licence fee for a break up period, they have no right to grant licence for a break up period. In other words, there is no justification on the part of the respondents to collect the licence fee for the whole year and grant the licence for a period of three months only. — *S.N. Chinappa v State of Karnataka and Others*, **2001(5) Kar. L.J. 234.**

Rule 5-A — Petitioners prayed for writ of *mandamus* directing respondents to renew lapsed licences by accepting 50% of prescribed licence fee for lapsed period — Sub-rule (3) of Rule 5-A makes it clear that if licences granted prior to 1-7-1999 may be renewed on payment of 50% of fee prescribed under Rule 8 of Rules in respect of lapsed period — Petitioners

1. Rule 5-A inserted by Notification No. FD 12 PES 2000, dated 24-6-2000, w.e.f. 24-6-2000.
2. Inserted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.

have obtained licences after 1-7-1999, benefit or concession provided under Rule 5-A(3) not applicable to them — Demand notice issued by authorities calling upon petitioners to deposit entire arrears of licence fee cannot be said to be illegal or bad in law — Petition dismissed.

Mohan Shantanagoudar, J., Held: The bare perusal of Rule 5-A of the Rules would make it clear that the application for renewal of licence shall be made either before the Excise Commissioner or the Deputy Commissioner as the case may be, along with the licence fee prescribed under Rule 8 of the Rules for renewal of licence. Rule 8 of the Rules prescribes specified fees for obtaining licence. Thus, the applicant shall have to pay the required licence fee for getting the licence renewed. Such an application shall be filed at least one month prior to expiry of the licence already granted. However, the Excise Commissioner or the Deputy Commissioner as the case may be, may condone the delay in filing the application if he is satisfied that the applicant had sufficient cause for not making the application within a period of one month. Sub-rule (3) of Rule 5-A of the Rules further makes it abundantly clear that if the licences granted prior to 1st July, 1999, if lapsed, may be renewed at the discretion of the Excise Commissioner or the Deputy Commissioner as the case may be, on payment of 50% of fee prescribed under Rule 8 of the Rules in respect of the lapsed period. The language used in Rule 5-A(3) of the Rules is plain and unambiguous. Hence, the said provision has to be read as it is. There is no scope for reading or interpreting the same in any other manner than its plain meaning. Thus, as the petitioners have obtained licences after 1- 7-1999 the benefit or concession provided under Rule 5-A(3) is not applicable to them. The plain reading of the said provision makes it clear that they are not entitled for the concession for payment of 50% of the licence fee for the lapsed period. — *Narasegowda v State of Karnataka and Others*, **2008(3) Kar. L.J. 74.**

[1][5-B. **Wholesale licences in Form CL-1 and Form CL-1 (Beer) not to be renewed.**—Notwithstanding anything contained in Rule 5-A wholesale licences granted or renewed in Form CL-1 or Form CL-1 (Beer) in the year 2005-06 or earlier years shall not be renewed for the period commencing from 1st July, 2006.]

6. Restriction on the use of premises.—No premises shall be used for the sale of [2][Indian Liquor (other than arrack)] or Foreign Liquor or both unless it is approved by the Deputy Commissioner of the District.

CASE LAW

R. 6 — Karnataka Excise Licenses (General Conditions) Rules, 1967 — Sale of Indian made Foreign liquors — Licenced premises — Order to shift the premises — Opportunity of being heard necessary before directing shifting. — *C.L. Kalappa v Deputy Commissioner (Excise)*, **1990(1) Kar. L.J. 226 : ILR 1990 Kar. 1689.**

1. Rule 5-B inserted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 19-6-2006.
2. Substituted for the word "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.

R. 6 — Karnataka Excise Licenses (General Conditions) Rules, 1967 — Sale of Indian made Foreign liquors — Licenced Premises — Powers of Deputy Commissioner to direct shifting from one place to another place having regard to the public interest — *Held,* Power to direct shifting of premises is inherent in the Licencing Authority and it is part of the original power which is vested in Deputy Commissioner to approve a shop at the time of granting the licence — Explained. — *C.L. Kalappa v Deputy Commissioner (Excise),* **1990(1) Kar. L.J. 226 : ILR 1990 Kar. 1689.**

7. Duration of Licence.—All licences other than "Special Licences" and "occasional licences" [1][granted or renewed] shall be valid for the year or where a licence is granted [2][or renewed] on any date after the 1st July until the 30th June thereafter:

[3][x x x x x.]

CASE LAW

Rules 7 and 8 — Retail vend of liquor — Duration of licence issued in Form CL-2 for — Duration is only for excise year for which it is issued — Fresh licence is required to be obtained by paying prescribed fee for subsequent year, and fresh licence so obtained is not expired licence renewed — Where licensee had discontinued business after expiry of licence obtained by him for particular year and has applied for licence after gap of some years, licence fees for years during which he had not obtained licence, cannot be recovered from him for issuing licence for subsequent year he has applied for.

There is no question of renewal of licence and, therefore, when an application for licence is considered for a particular year, the Department cannot recover licence fee for the earlier years. In view of it, respondents will have to consider the petitioner's application for grant of licence for the year 1999-2000 without demanding any amount as licence fee for the previous years when petitioner did not seek licence. — *Narayana v State of Karnataka and Others,* **2000(5) Kar. L.J. 30.**

8. Fees to be paid.—(1) The licence fee for the several kinds of licences shall be as follows, namely,—

[4][[5][1. x x x x x

1-A. x x x x x]

[6][2. Retail Shop Licence referred to in clause (2) of Rule 3 in the case of,—

(a) City Municipal Corporations having population more than 20 lakhs. — Rs. 6,00,000/- per year

1. Inserted by Notification No. FD 12 PES 2000, dated 24-6-2000, w.e.f. 24-6-2000.
2. Inserted by Notification No. FD 12 PES 2000, dated 24-6-2000, w.e.f. 24-6-2000.
3. Proviso omitted by Notification No. FD 9 PES 2000, dated 23-6-2000, w.e.f. 1-7-2000.
4. Items 1 to 12 substituted by GSR 191, dated 28-6-1980, w.e.f. 1-7-1980.
5. Clauses (1) and (1-A) omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.
6. Item 2 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.

(b) Other City Municipal Corporations areas — Rs. 5,00,000/- per year

(c) City Municipal Council Areas — Rs. 4,50,000/- per year

(d) Town Municipal Council Areas or Town Panchayat areas — Rs. 4,00,000/- per year

(e) Other areas. — Rs. 4,00,000/- per year.]

3. Licence to Chemists and Druggists — Rs. 100 per year

[1][4. Licence to clubs referred to in clause (4) of Rule 3, in the case of.—

(a) City Municipal Corporations areas having population more than 20 lakhs. — Rs. 6,50,000 per year

(b) Other City Municipal Corporation areas — Rs. 5,00,000 per year

(c) City Municipal Council areas — Rs. 4,00,000 per year

(d) Town Municipal Council or Town Panchayat areas — Rs. 2,00,000 per year

(e) Other areas — Rs. 2,00,000 per year]

[2][5. Occasional licence referred to in clause (5) of Rule 3 — Rs. 10,000/- per day.]

[3][6. Special licence referred to clause (6) of Rule 3 — Rs. 10,000 per day.]

[4][6-A. Star Hotel Licence referred to in clause (6-A) of Rule 3 — Rs. 10,00,000 per year]

[5][7. Hotels and Boarding Houses licence referred to in clause (7) of Rule 3, in the case of.—

(a) City Municipal Corporation areas having population more than 20 lakhs — Rs. 8,50,000 per year

(b) Other City Municipal Corporations areas — Rs. 7,50,000 per year

(c) City Municipal Council areas — Rs. 5,50,000 per year

1. Item 4 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
2. Item 5 substituted by Notification No. FD 09 PES 2007, dated 29-6-2007, w.e.f. 1-7-2007.
3. Item 6 of Rule 8 substituted by Notification No. FD 17 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016.
4. Item 6-A substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
5. Item 7 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.

(d)	Town Municipal Council or Town Panchayat areas	Rs. 5,00,000 per year
(e)	Other areas	Rs. 4,00,000 per year]

[1][7-A. Tourist Hotel licences referred to in Clause 7-A of Rule 3 — Rs. 30,000/- per year]

[2][7-B. Tourist Hotels Beer Bar Licence referred to in clause (7-B) in Rule 3 — Rs. 1,000/- per year]

[3][7-C. Licence to supply liquor on Board of Train engaged and run by the Tourism Development Corporation of the State Government or Central Government under clause (7-C) of Rule 3 — Rs. 10,00,000/- per year]

[4][(7-D) Hotel and Boarding House Licenses owned by the person belonging to Scheduled Castes and Scheduled Tribes specified in clause (7-D) of Rule 3, in the case of.—

(a)	City Municipal Corporation areas having population more than 20 lakhs	Rs. 8,50,000 per year
(b)	Other City Municipal Corporation areas	Rs. 7,50,000 per year
(c)	City Municipal Council areas	Rs. 5,50,000 per year
(d)	Town Municipal Council/Town Panchayat areas	Rs. 5,00,000 per year
(e)	Other areas	Rs. 4,00,000 per year]

[5][8. Military Canteen Licence referred to in clause (8) of Rule 3 — Rs. 250/- per year]

[6][8-A. Military Canteen Stores Bonded Warehouse licence — Rs. 1,25,000]

[7][8-B. Border Security Force/Para Military Unit Licence — Rs. 100 per year]

[8][9. Refreshment Room (Bar) Licence referred to in clause (9) of Rule 3 in the case of.—

1. Item 7-A substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
2. Item 7-B substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
3. Item 7-C substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
4. Item 7-D substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
5. Item 8 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
6. Item 8-A substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
7. Item 8-B of Rule 8 inserted by Notification No. FD 12 PES 95(iv), dated 29-6-1996, w.e.f. 29-6-1996.
8. Item 9 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.

(a)	City Municipal Corporation areas having population more than 20 lakhs	Rs. 7,50,000/- per year
(b)	Other City Municipal Corporations areas	Rs. 6,00,000/- per year
(c)	City Municipal Council areas	Rs. 5,00,000/- per year
(d)	Town Municipal Council Areas/ Town Panchayat Areas	Rs. 4,00,000/- per year
(e)	Other areas	Rs. 4,00,000/- per year]

10. Auctioner's Licence — Rs. 20/- per year

11. Licence for retail sale of bottled toddy — Rs. 250 /- per year

[1][12. x x x x x — x x x x x]

[2][13. x x x x x.]

[3][14. (a) Licence for running duty-free shop at International Airport; and — Rs. 10,000/- per year.

(b) Distributor licence to sell foreign liquor — Rs. 50,00,000/- per year.]

[4][15. Retail shop licence issued to Government Companies — Rs. 4,00,000 per year]

[5][16. Refreshment Room (Bar) Licence at International Airport — Rs. 12,50,000 per year.]

[6][(2) x x x x x.]

[7][(3) x x x x x.]

[8][(4) The Excise Commissioner may demand payment of a sum in the nature of privilege fee specified in Section 24 of the Act subject to such guidelines and procedure as the State Government may issue in this regard from time to time.]

1. Item 12 omitted by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
2. Item 13 and Note of Rule 8 omitted by Notification No. FD 16 PES 2003(i), dated 30-6-2003, w.e.f. 30-6-2003.
3. Item 14 substituted by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016.
4. Item 15 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
5. Item 16 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
6. Sub-rule (2) omitted by Notification No. FD 06 PES 2011, dated 1-8-2014, w.e.f. 1-8-2014.
7. Sub-rule (3) omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.
8. Sub-rule (4) inserted by Notification No. FD 16 PES 2003(i), dated 30-6-2003, w.e.f. 30-6-2003.

[1][(5) Privilege fee for Distributor Licence shall mean and include the rate or amount determined by way of notification by the State Government from time to time, at any time in a year. The Privilege fee fixed by the State Government shall be payable by the Distributor Licensee to the State Government during the period of licence for the year with effect from 1st day of July to 30th June thereafter.]

CASE LAW

Rule 8 — Indian Contract Act, 1872, Section 29 — Licence fee — Enhancement and recovery of — Licensee paying existing fee and agreeing to pay fee as would be enhanced in accordance with proposal of Government — Proposed enhancement held in abeyance pending disposal of litigation between licensees and Government — Agreement to pay enhanced fee, not void for uncertainty as parties knew terms of proposed enhancement — Absence of statutory provision to collect enhanced fee, not relevant where payment of fees is governed by terms of contract — Enhanced fee fixed under rules in accordance with policy of Government and after inviting and considering objections thereto from public and affected parties cannot be held unconscionable.

A careful perusal of these agreements will make it clear that not only the liability to pay the existing licence fee is discharged, but it is also made clear that licence fee for the relevant year is going to be enhanced and in that event he is ready to pay the difference of licence fee immediately on hearing from the department. A contract which is intended to be binding on a party is certainly enforceable even though certain terms may not have been precisely set forth in the agreement, if the nature of the said terms can be ascertained from the surrounding circumstances. It cannot be said that the parties concerned could not give a meaning to the expressions used in these agreements to state that what the enhancement could be and with reference to what period or the rate of enhancement and what the difference could be. When these aspects were clearly in the mind of the parties at the time of entering into agreements, the petitioners would not be justified in contending that the contract between the parties is void for uncertainty. *The argument that there is no power to demand or collect short levied licence fee in the absence of a specific provision under the statute may not be of much significance in this case because of the agreements entered into between parties and the nature of licence fee being consideration for contract. Thus we are in the realm of contract and not power being exercised by any authority over the citizens under a statute such as in case of collection of compulsory exactions like tax or fee. In such latter cases necessarily there ought to be a specific provision for collection of short levy. When the parties have agreed to pay the licence fee, as may be enhanced, the contention that the respondents have no power to enforce such a clause in the absence of a specific provision in the statute is not tenable at all. It is clear that this is a case where the petitioners accepted to carry on trade in liquor subject to the policy of the State. The policy of the State* has been explained in the budget presented to the legislature and after following the procedure under Section 71 of the Karnataka Excise Act relevant rules have been framed after inviting objections from the concerned persons and the licence fee has been fixed under these rules. The licence to be granted is in the nature of a contract, but even so, all the terms thereof are prescribed under statutory rules framed after publication of a draft, calling for objections, considering such objections with the further requirement of laying such rules in the legislature. This kind of contract which contains the terms laid down under statutory rules comes into existence after following a hybrid procedure which is both contractual and statutory. Such contracts are not susceptible to the attack of being unconscionable to be invalid under the Contract Act. — *K.G. Hanumantha Raju and Others v State of Karnataka and Others,* **1996(5) Kar. L.J. 719A.**

1. Sub-rule (5) inserted by Notification No. FD 08 PES 2013, dated 27-8-2013, w.e.f. 27-8-2013.

Rule 8 — Legislature competent to charge licence fee for parting with privilege to vend liquor — Licence fee is in nature of consideration for contract and not fee or tax or compulsory extraction from party — Principles applicable to delegated legislation regarding tax or fee not applicable to collection of licence fee.

It is no longer open to the petitioners to contend that the legislature has no competence to charge or collect licence fee for parting with the privilege to vend in Indian or Foreign liquor. Section 24 of the Act consists of two parts, namely, the introductory part that instead of or in addition to any excise duty or countervailing duty leviable under Sections 22 and 23, which is put in parenthesis, and the operative part that the State Government may accept payment of such a levy of licence fee or privilege fee as may be prescribed in consideration of grant of a lease or licence or both, by or under the Act. Section 24 as amended enables not only acceptance of certain consideration in the form of fee called licence fee or privilege fee, but also for grant of licence or lease of the said privilege. Section 24 makes it clear that the State Government may accept payment of a sum or levy such licence fee or privilege fee in consideration of grant of a lease or licence or both. In order to part with a lease or licence, consideration could be collected and such consideration could be collected under this provision for the purpose of granting licence or lease. What is provided under Section 24 is in the nature of a consideration for contract and is not at all in the nature of any levy of fee or tax or compulsory exaction from a party. When the Government proposed lease or licence on right to vend in Foreign/Indian liquor, the party concerned has a choice in the matter and there is no element of compulsion involved at all. Hence, the principles applicable to delegated legislation in respect of levy of fee or tax cannot be applied at all. — *Karnataka Wine Merchants' Association (Regd.), Bangalore and Others v State of Karnataka and Others,* **1995(4) Kar. L.J. 214A.**

R. 8 — Litre fee is payable at stage of issue of liquor from distillery or manufactory unless the issue is from bonded warehouse to licensed vendor. See Karnataka Excise Act, Section 23(aa) — **1971(2) Kar. L.J. 94.**

Rr. 8 and 8-A — Rates of licence fee — Whether arbitrarily fixed, exorbitant and uneconomical leading to annihilation of business — Party making allegation to prove with facts and figures — Court hesitant to intervene.

S. Rajendra Babu, J., Held.—The petitioners have not in any of these petitions laid a factual foundation to demonstrate the enhanced fee would result in annihilation of the petitioners' business nor result in destruction of their activities. Due regard should be had to the nature of trade and business and the policy of the Government in such matters should not be lightly interfered with because grant of licences for manufacture and sale of liquor would essentially be a matter of economic policy where the Court would hesitate to intervene and strike down what the State Government had done, unless it appears to be plainly arbitrary, irrational or *mala fide*. — *Karnataka Wine Merchants' Association (Regd.), Bangalore and Others v State of Karnataka and Others,* **1995(4) Kar. L.J. 214D.**

Rr. 8 and 11 — Licence fee — Payment of, for sale of liquor — Licence fee payable in advance for each excise year — Rate to be determined on whether area is Corporation area or Municipal area on 1st July of each year — Notification issued on 17-7-1992 declaring area as Corporation and notification issued on 5-10-1995 declaring the areas as municipal areas make licensee liable to pay licence fee at the rate applicable to Corporation area for only three excise years of 1993-94, 1994-95 and 1995-96.

G.C. Bharuka, J., Held.— Since under Rule 11 the licence fee for an excise year commencing from 1st of July has to be paid in advance along with the application, therefore the rate of licence fee will be governed by the fact as to whether on 1st of July of the concerned excise year, the area concerned was a Municipal area or the Corporation area. If on such date the area was a Municipal area, the licence fee can be collected only by treating it to be Municipal area. The difference of licence fee can be calculated by taking into account the rate of licence fee which was applicable to Corporation area only for the excise years 1993-94, 1994-95 and 1995-96. — *H. Ibrahim and Others v State of Karnataka and Others,* **1996(5) Kar. L.J. 678B.**

R. 8(1) — If valid — Constitution Schedule VII, List II, Entries 8, 51 & 62.

Chandrashekhar & Noronha, JJ.—The licence fee levied under Rule 8(1) of the Rules for the privilege of retail vending of Indian and Foreign liquors, cannot be regarded as excise duty on such liquors. The State Government has no power under the Act to make rules providing for a levy which is not in the nature of excise duty.

Licence fee for the privilege of vending liquor does not come within Entry 51 of List II. The power to levy such licence fee cannot be deducted from Entry 8, which is a general legislative entry relating to production, manufacture, possession, purchase and sale of intoxicating liquor.

Nor can licence fee under Rule 8(1) be justified as a tax on luxuries falling within entry 62 of List II Schedule VII Rule 8(1) is invalid in so far as it relates to levy of licence fee on retail vending of Indian and Foreign liquors. AIR 1967 SC 1512, AIR 1971 SC 152 & 1968(2) Kar. L.J. 78 foll. AIR 1954 SC 220 expld.— *V.S. Narayanaswamy v State of Karnataka,* **ILR 1974 Kar. 1287 : 1974(2) Kar. L.J. 200.**

Rule 8(1) — As amended on 18-6-1998 — Licence fee — Enhancement of — Whether arbitrary and exhorbitant — Licence fee is in nature of consideration for contract and is not in nature of any levy of fee or tax or compulsory extraction — When Government proposes to lease out right to vend liquor, party concerned has option to enter into contract or not — Fixation of fee is policy decision which cannot be interfered within exercise of extraordinary jurisdiction under Article 226 of Constitution.

Fixation of fee is a policy decision which the delegative authority has to exercise. In respect of the enhancement, if the entire history is examined, on the face of it also cannot be said to be arbitrary. The licence fee is in the nature of consideration for contract and not fee or tax or compulsory extraction from a party. . . . . Therefore, it is not a case where this Court should interfere with the extraordinary jurisdiction under Article 226 of the Constitution. — *Karnataka Wine Merchants Association (Registered), Bangalore and Others v State of Karnataka and Others,* **1999(2) Kar. L.J. 612B.**

Rule 8(1) — As amended on 18-6-1998 — Licence fee — Re-fixation and enhancement of — Classification of licensees on basis of area where they carry on business, whether within Municipal Corporations having population exceeding 20 lakhs, or in smaller cities or towns or in rural areas, for charging different rates of fees — Classification, held, reasonable and not violative of Article 14 of Constitution.

The classification which has been made here is in respect of the place where business is carried on. If a person is wholesale dealer and the licence is granted in respect of the premises which is under the Corporation limit, a different fee is prescribed, when similar dealer who carries on business in the rural limit. The distinction between the village limit or Corporation limit can be said to be a reasonable classification or based on *intelligible differentia*. If the licensees who are carrying on business in the Corporation limit have been kept at a different footing than the persons carrying on business in the rural limit *per se* it is reasonable classification and cannot be considered as violative of Article 14 of the Constitution. The classification is reasonable with the object of the legislature which is sought to be achieved by giving lesser burden of licence fee to persons who are carrying on business in rural area. — *Karnataka Wine Merchants Association (Registered), Bangalore and Others v State of Karnataka and Others,* **1999(2) Kar. L.J. 612A.**

R. 8(1) — Imposition of Licence Fee under Rule 8(1) to be paid in respect of the premises where the licensed shop is located — Such a licence fee does not pertain to the sale or manufacture — Such a rule is beyond the enabling provision of Section 23(d).

Ranganath Misra, C.J., M.H. Kania and Kuldip Singh, JJ., Held.—The High Court rightly did not accept the challenge to Section 23(d) of the Karnataka Excise Act, 1965. What is authorised under Section 23(d) is imposition of a fee of licence in respect of manufacture or sale of any excisable articles. R. 8(1) has obviously gone beyond the enabling provision in the section by requiring a licence fee to be paid for the premises where the licensed shop is located. Such a fee would not have the support of Section 23(d). It is necessary to refer to precedents for support for this conclusion. It may be possible for the Legislature to make a statutory provision for a licence fee of the type contemplated under the Rules but without authority of the statute a Rule of the type impugned should not have been made. We find no merit in this appeal and it is, therefore, dismissed. — *State of Karnataka and Others v V.S. Narayana Swamy*, **AIR 1992 SC 151 (FB).**

Rule 8(1).— Requiring a licence fee to be paid for the premises where a licensed shop is located, is beyond the enabling provision in Section 23(d) of the Act.

What is authorised under Section 23(d) of the Mysore Excise Act, 1965, is imposition of a fee of licence in respect of manufacture or sale of any excisable articles. Rule 8(1) has obviously gone beyond the enabling provision in the section by requiring a licence fee to be paid for the premises where the licenced shop is located. Such a fee would not have the support of Section 23(d), It may be possible for the Legislature to make a statutory provision for a licence fee of the type contemplated under the rules but without authority of the statute a rule of the type impugned should not have been made.— *State of Karnataka and Others v V.S. Narayana Swamy*, **AIR 1992 SC 151 : 1991 AIR SCW 2850.**

[1][**8-A. Additional licence fee.**—In respect of a licence granted under these rules, an additional licence fee equivalent to fifteen per cent of the licence fee levied in respect of each kind of licence under Rule 8, shall be levied for the purpose of various infrastructure projects across the State, equity investment in Bangalore Mass Rapid Transit Limited and for establishing a Mukhya Manthri Grameena Rasthe Abhivruddhi Nidhi in the proportion of 57:28:15 respectively.]

CASE LAW

R. 8-A — Additional licence fee at 15% of licence fee charged under Rule 8 — Only in respect of licences issued in Bangalore City — Proceeds of collections under Rule 8-A for utilisation towards Bangalore Mass Rapid Transit System — Validity of levy.

S. Rajendra Babu, J., Held.—The whole object of Rules 8 and 8-A is to raise the revenue for the State. If that object is sought to be achieved by raising revenue in terms of Section 24 of the Act, which is only a consideration for granting privilege, whether it is collected in terms of Rule 8 or 8-A would not

1. Rule 8-A substituted by Notification No. FD 36 PES 2003(5), dated 23-2-2004 and shall be deemed to have come into force w.e.f. 1-2-2004.

make much difference. It may be for purpose of identification of certain percentage of amount to be utilised for Bangalore Mass Rapid Transit System, such an arrangement has been made. No exception could be taken to that fixation of levy either. — *Karnataka Wine Merchants' Association (Regd.), Bangalore and Others v State of Karnataka and Others*, **1995(4) Kar. L.J. 214C.**

Rule 8-A — As amended on 18-6-1998 — Additional licence fee — Validity of — 15% of licence fee charged under Rule 8 is collected as additional licence fee only in respect of licences issued in Bangalore City — Proceeds of collections earmarked for equity investment in Karnataka Infrastructure Development and Finance Corporation — There is no hostile discrimination in levy of additional fee.

V.K. Singhal, J., Held: Additional licence fee at 15% was charged for Bangalore City and the proceeds of collections under Rule 8-A of the Karnataka Excise (Sale of Indian and Foreign Liquor) Rules, 1968 were for utilisation towards Bangalore Mass Rapid Transit System. Now this additional fee is to be collected in respect of each kind of licensees under Rule 8 for a period of two years from July 1, 1998. Additional fee takes the same character as that of fee and simply because separate provision is made, its character is not changed. Though the rule making authority in mentioning the object of collection of this additional licence fee as equity investment in the Karnataka Infrastructure Development and Finance Corporation, it was not necessary to mention even the object for which it was collected. There is no hostile discrimination so as to affect the provisions of Article 14 of the Constitution and the fee demanded cannot be said to be arbitrary or in any way *mala fide*. — *Karnataka Wine Merchants Association (Registered), Bangalore and Others v State of Karnataka and Others*, **1999(2) Kar. L.J. 612C.**

[1][**8-B. Security Deposit.**—x x x x x.]

9. List of Brands to be furnished.—Every applicant for a licence to sell [2][Indian Liquor (other than arrack)] or foreign liquors or both shall give to the Deputy Commissioner of the District, a list, in writing, of the particulars of brands he wishes to sell. The Deputy Commissioner shall then satisfy himself that every brand named in the list is of genuine [3][Indian Liquor (other than arrack)] or foreign liquor or both and is entered in the authoritative list issued by the Excise Commissioner. If he finds in the list any doubtful or spurious brand he shall exclude the same from the list to be appended to the licence. The list appended to the licence will be liable to be added to, or otherwise altered upon the application of the licensee.

1. Rule 8-B as inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002 and omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.
2. Substituted for the words "Indian Liquors" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.

[1][9-A. **Affixture of excise label.**—[2][(1)] No [3][licensee] under these rules shall with effect from such date as the State Government may notify in this behalf store or sell any bottle of liquor which is not affixed with the excise label specified by the [4][Excise Commissioner:]]

[5][Provided that in the case of bottle of beer a licensee may also store or sell the bottles which in lieu of excise adhesive lebels bear such number, marks, impression, embossing in such manner as may be specified by the Excise Commissioner from time to time on the approved labels of manufactures or on any part of the bottle.]

[6][(2) Notwithstanding anything contained in sub-rule (1), in respect of liquor imported from outside the State, the distributor licensee, shall in lieu of excise adhesive labels, affix Holograms on liquor bottles, with such specification as specified by the Excise Commissioner at his own cost in the presence of the Warehouse Officer with effect from such date as the State Government may notify in this behalf.]

[7][9-B. **Fee for approval of brand labels of liquor manufactured outside Karnataka.**—No person shall import and sell in Karnataka any Indian made liquor manufactured outside Karnataka without the approval of such brand labels by the Excise Commissioner and fee for grant of such approval shall be [8][rupees fifty thousand per annum per label in case of Indian made liquor including Beer [9][but excluding Wine and rupees ten thousand in case of Wine] per annum per label:

Provided that no approval shall be granted by the Excise Commissioner for any brand label unless permission for manufacture of such liquors and approval for labels is granted by the competent excise authorities in the State in which such liquor is manufactured:

Provided further that the provisions contained in Rule 15 of the Karnataka Excise (Bottling of Liquors) Rules, 1967 regarding the contents of labels shall *mutatis mutandis* apply to the brand labels of other State also.]

[10][9-C. **Fee for approval of brand labels of liquor manufactured outside India.**—(1) No person shall import and sell in Karnataka any foreign liquor manufactured outside India without the approval of such brand labels by the Excise Commissioner.

1. Rule 9-A inserted by GSR 173, dated 13-9-1989, w.e.f. 30-9-1989.
2. Rule 9-A renumbered as sub-rule (1) by Notification No. 16 PES 2003(i), dated 30-6-2003, w.e.f. 30-6-2003.
3. Read for the word "licence" by GSR 181, dated 25-9-1989.
4. Read for the word "Commissioner" by GSR 181, dated 25-9-1989.
5. Proviso to Rule 9-A inserted by GSR 105, dated 5-7-1994, w.e.f. 5-7-1994.
6. Sub-rule (2) inserted by Notification No. 16 PES 2003(i), dated 30-6-2003, w.e.f. 30-6-2003.
7. Rule 9-B inserted by Notification No. FD 9 PES 2000, dated 23-6-2000, w.e.f. 1-7-2000.
8. Substituted for the words "rupees fifty thousand" by Notification No. FD 22 PES 2002, dated 22-4-2003, w.e.f. 22-4-2003.
9. Substituted for the words "but excluding Wine and rupees twenty-five thousand in case of wine" by Notification No. FD 12 PES 2015, dated 30-6-2016 and shall be deemed to have come into force w.e.f. 1-7-2015
10. Rule 9-C inserted by Notification No. FD 15 PES 2001, dated 4-7-2001, w.e.f. 1-7-2001.

(2) A person who has taken a distributor licence to sell foreign liquor shall apply to the Excise Commissioner for approval of brand labels enclosing sets of labels of each brand of label along with the challan for having paid the fee for approval of labels at the rate of [1][rupees twenty thousand in case of liquor other than Beer and Wine and rupees ten thousand in case of Beer and Wine] per annum per label:

Provided that the provisions contained in Rule 15 of the Karnataka Excise (Bottling of Liquors) Rules, 1967 regarding the contents of labels shall *mutatis mutandis* apply to the brand labels of liquor manufactured outside India:

Provided further that in addition to the above details, a sticker shall be affixed on the foreign liquor bottles containing name and address of the distributor licensee to sell foreign liquor or import of foreign liquor in India, in case such liquor is not directly imported by the distributor licensee.]

10. Strength of liquor.—No foreign liquor [2][or Indian liquor (other than arrack)] weaker in strength than 25^0 under proof will ordinarily be entered in the authoritative list issued by the Excise Commissioner, referred to in Rule 9 or allowed to be sold under any of the licences granted under Rule 3 except under special licences, provided that in the case of gin the strength may be not less than [3][35^0 Under Proof.] But the Government may authorise the entry in the list and the sale of any special brands of weaker strength, on being satisfied of their wholesomeness and purity.

11. Licence fee to be paid in advance.—The licence fee for all kinds of licences shall be paid in advance along with application for the licenses. In case the licence is not granted the fee paid shall be refunded.

CASE LAW

Rules 11 and 3(2) — Licence fee — Refund of — Licence fee deposited by applicant seeking licence in Form CL-2 to run retail shop is refundable to applicant if licence is not granted to him — Claim for refund by third party, not applicant who deposited fee, is not maintainable.

Under Rule 11 of IMFL Rules, if the licence had not been granted, the amount has to be refunded in favour of the person who deposited the amount. Since the present petitioner had not deposited the amount, he cannot maintain the petition for *mandamus*. . . . . The writ petition is not maintainable and the authorities cannot be directed to refund the advance amount to the petitioner. — *M.L. Lingaraj v State of Karnataka and Others,* **2002(1) Kar. L.J. 175.**

1. Substituted for the words "rupees twenty-five thousand" by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002.
2. Inserted by GSR 159, dated 19-6-1973 and shall be and shall always be deemed to have been inserted.
3. Substituted for the figures and letters "350 U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.

12. Number of licences to be fixed.—(1) The maximum number of licences to be granted in an area shall be determined from time to time by the Excise Commissioner with the previous approval of the State Government.

(2) The number of retailers licences to be granted in a taluk for the year shall be determined with reference to the population of such taluk and the probable demand.

[1][(3) The number of retail licences to be granted in a Taluk shall be as follows.—

(a) One retail licence for every 7,500 urban population or a fraction thereof exceeding 3,500; and

(b) One retail licence for every 15,000 rural population or a fraction thereof exceeding 7,500.

Explanation.—"Population" for the purpose of this sub-rule shall be the population as ascertained at the last preceding census and includes the projected annual growth subsequent to the last preceding census].[2][(3-a) x x x x x.]

[3][(4) x x x x x.]

CASE LAW

R. 12 — Fixation of the maximum number of licences — whether sub-rule (3) confers power on Licensing Authority to grant additional licences at the rate of one additional licence for each 10,000 urban and 20,000 rural population in every town.

M. Rama Jois and M. Ramakrishna, JJ.—The maximum number of licence that could be granted under Rule is what was fixed by the Government and there is no power with the government or the Excise Commissioner to grant over and above the said maximum. — *State of Karnataka and Others v Wine Merchants' Association and Others*, **1986(2) Kar. L.J. 299 : ILR 1986 Kar. 2943 (DB).**

Rule 12 — Maximum licences for an area — Petitioner seeking direction to respondent 2-Commissioner of Excise to fix the number of licences for grant — Held, petitioner's representation is addressed to respondent-Grama Panchayat — Therefore, petitioner directed to approach first the Excise Commissioner — Excise Commissioner to decide issue in terms of Rule 12.

Dr. Vineet Kothari, J., Held: Learned Counsel for the petitioner and the learned Counsel appearing for the State as well as the impleading applicants fairly suggested that let the Excise Commissioner pass appropriate order on the representation filed by the petitioner, which will be treated as a

1. Sub-rule (3) of Rule 12 substituted by GSR 20, dated 17-1-1987 and shall be deemed to have come into force w.e.f. 1-1-1987.
2. Sub-rule (3-a) of Rule 12 omitted by Notification No. FD 22 PES 93(i), dated 9-5-1994, w.e.f. 9-5-1994.
3. Sub-rule (4) with explanation omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.

representation filed to the Excise Commissioner. – *Smt. Prema Kumari v The Grama Panchayat, Mattur Hobli, Chitradurga District and Others*, **2016(5) Kar. L.J. 326.**

Rule 12(2) and (3) — Retailers' licences — Basis for issue of — Maximum number of licences to be issued in year in taluk is to be determined with reference to population of taluk and probable demand — Probable demand is to be estimated on basis of whether particular spot is tourist spot, number of tourists likely to visit or pass through that spot and on recommendation of Tourism Department — Licences issued in excess of maximum number fixed under rule are liable to be cancelled.

The Government has authorised the Commissioner for issuing licences basing mainly on the population and probable demand. Therefore, the impugned circular issued by the Commissioner of Excise is in consonance with the recommendation of the Tourist Department and the Government Order.... There is no dispute that there is increase in the number of tourists in the State and there are number of tourists spots also. The Tourism Department also identified Tumkur, Kolar and Raichur Districts as tourists spots. Therefore, grant of licences in such places will not only depend on the population of that area but also the probable demand *i.e.*, number of tourists who visit that area and who pass through that area while travelling in the State. There is nothing wrong in granting licences taking into consideration the population and probable demand..... Therefore, in view of the above circumstances, it is just and appropriate to direct respondents 2 to 4 first to determine how many licences have to be granted in a year before issuing licences based on the population and probable demand of the area; whether in a given place there is increase in the grant of licences because of increase in population or increase in demand, has to be taken into consideration while issuing licences. If they have issued more licences in violation of Rule 12 of the Rules, the concerned authority has to take action for cancelling such licences after considering the representation of the concerned person. — *Nagaraju v State of Karnataka and Others*, **1999(4) Kar. L.J. 668 (DB).**

13. Government to fix minimum retail prices.—The State Government may fix from time to time, the minimum retail prices at which [1][Indian Liquor (other than arrack)] or foreign liquors or both may be sold.

14. Licensee to abide by the provisions of the Act *etc.*—[2][(1)] The licensee or his successors or assignees shall have no claim whatsoever to the continuance or renewal of the licence as the case may be, after the expiry of the period for which such licence was granted.

[3][(2) x x x x x.]

1. Substituted for the words "Indian Liquors" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Rule 14 renumbered as sub-rule (1) thereof by Notification No. FD 20 PES 2002, dated 1-4-2003, w.e.f. 1-4-2003
3. Sub-rule (2) omitted by Notification No. FD 06 PES 2011, dated 1-8-2014, w.e.f. 1-8-2014.

CASE LAW

Rule 14 — Demand order for short lifting of liquor — Demand order was not preceded by any enquiry — Impugned order passed without seeking any explanation or giving an opportunity to the petitioner — Held — Order impugned shall be treated as a show-cause notice — Petitioner to submit reply within 15 days from date of judgment — Competent Authority should afford an opportunity of hearing and hold an enquiry if necessary in accordance with law.

Anand Byrareddy, J., Held: There is no indication of an enquiry having been conducted and the fact that the demand is made in respect of the period 2005-2010, it would necessarily require the petitioner to be granted an opportunity of hearing, without which the demand having been made takes the petitioner by surprise and certainly results in the principles of natural justice being violated. However, in the interest of the Revenue and in order to balance equities, it would be appropriate, if the petitioner is directed to deposit, without prejudice, 50% of the demand now made subject to the result of further proceedings. The order impugned shall be treated as a show-cause notice, to which the petitioner may submit his reply within 15 days from today and the Competent Authority should afford an opportunity of hearing and hold an enquiry if necessary in accordance with law and thereafter pass appropriate orders. – *Rockline Bar and Restaurant, Bangalore v State of Karnataka and Others,* **2015(4) Kar. L.J. 135.**

Rules 14, 14-A and 14-B — Writ challenging notice issued to petitioner calling upon them to pay penalty under Rule 14 — On facts — Held — In view of withdrawal of demand notice, writ petition do not survive for consideration — Petition dismissed as infructuous.

Huluvadi G. Ramesh, J., Held: It appears, during April 2003, Rules 14, 14-A and 14-B came to be inserted to the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968. During July 2005, the Karnataka State Beverages Corporation Limited came to be set up by the Government to regulate the flow of liquor from the manufacturer to the retailers like petitioners 2 to 11. Pursuance to which, CL-1 licenses were abolished and the petitioners were required to procure their requisite quantity of liquor from the Karnataka State Beverages Corporation Limited depot thereby curbing the illicit sale of liquor. During January 2012, the State Government has published draft Rules for omitting Rules 14, 14-A and 14-B of the Rules notifying the public at large that the said Rules will be taken into consideration after expiry of thirty days. During May 2014, respondent 2 wrote a letter to respondent 4 asking explanation regarding the short lift of the liquor and also it was addressed to petitioners 2 to 11 and other licensees to send the same to the Public Accounts Committee to take up Central Audit Committee reports. Based on the said representation, respondent 4 and his subordinates issued notice to the petitioners calling upon them to pay the penalty under Rule 14-B of the Rules, without hearing the petitioners which according to the petitioners is in violation of the Rules therein. . . . . The submission of learned Additional Government Advocate is that in view of the withdrawal of the demand notice, writ petitions do not survive for

consideration. . . . . . In view of the submission of the learned Additional Government Advocate that the notice issued under the Rules has been withdrawn, petitions are dismissed as having become infructuous. – *Dakshina Kannada Wine Merchants Association (Registered), Padil, Mangalore and Others v State of Karnataka and Others,* **2015(2) Kar. L.J. 369.**

Rules 14(2), 14-A and 14-B — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Amendment) Rules, 2003 — Karnataka Government (Transaction of Business) Rules, 1977, Rule 62(1)(a) — Rule making power — Applicability of principles of natural justice to exercise of — Parties who have filed objections in response to draft rules published inviting objections, are not required to be heard personally — Sufficient, if their objections are duly considered — Rule requiring rule making authority to consult law department before publishing rules is not mandatory, but only directory, and omission to consult law department does not render rules invalid.

The record discloses that due consideration was given to the objections filed by the respondents and others before arriving at the decision. The omission to record reasons to reject the objections is neither opposed to principles of natural justice nor can it be said that there is non-consideration of objections. The notings in the entire record bridges the link between the object, objections and the decision taken by the State. . . . In the instant case, State published draft Rules on 21-6-2002 and invited objections. Accordingly, the respondents and others filed objections. The State after due consideration of objections issued the final notification on 1-4-2003. Section 71(1) of the Act, do not contemplate for a personal hearing to the respondents. Under the circumstances, it cannot be said that State has not followed the procedure. There is no substance in the contention of the respondents that the State has not consulted the law Department as required under Rule 62(1)(a) of the Karnataka Government (Transaction of Business) Rules, 1977. Firstly, these Business Rules contemplates a consultation with the law Department on construction of Statutes, Acts and Regulations and the Statutory Rules and Orders or Notifications. In the instant case, construction of a Statute or Rules are not involved. Secondly, these Rules contemplate consultation and the same is in the nature of directory and not mandatory. Therefore, it cannot be said that the State has not followed the procedure. — *State of Karnataka and Others v Hotel Bangalore International Limited, Bangalore and Others,* **2005(2) Kar. L.J. 503D (DB) : ILR 2005 Kar. 1397 (DB).**

Rules 14(2), 14-A and 14-B — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Amendment) Rules, 2003 — Retail sale of liquor — Minimum quantity of liquor required to be lifted in month from wholesale dealers, by retail shop licensees and bar licensees, for — Rule fixing minimum quantity and also providing for imposition on licensees, penalty including cancellation of licence, for failure to lift minimum quantity fixed — Rule is not arbitrary and is within competence of rule making authority as object of rule is to prevent sale of illicit liquor leading to large- scale evasion of duty.

The respondents are CL-2 and CL-9 licensees. These categories of licensees come in contact with public at large and offer liquor for sale. It is found that over the years, these lisensees transacted a meagre business which is insufficient even to meet the prescribed licence fee. This clearly indicates that there was purchase and sale of liquor clandestinely leading to evasion of huge amounts of excise duty. With an object to plug these loopholes and in the interest of State revenue and public interest, the Excise Department collected details from various Districts and after thorough examination, notified the draft Rules on 21-6- 2002, proposing to amend the Rules by insertion of sub-rule (2) of Rules 14, 14-A and 14-B of the Rules. — *State of Karnataka and Others v Hotel Bangalore International Limited, Bangalore and Others,* **2005(2) Kar. L.J. 503A (DB) : ILR 2005 Kar. 1397 (DB).**

Rules 14(2), 14-A and 14-B — Constitution of India, Articles 14 and 226 — Retail sale of liquor — Minimum quantity of liquor required to be lifted in month from wholesale dealers, by retail shop licensees and bar licensees — Rule fixing minimum quantity and providing for imposition of penalty including cancellation of licence for failure to lift minimum quantity fixed, only for two types of licensees, *viz.,* retail shop licensees and bar licensees and not for other types of licensees like wholesale licensees, star-hotel licensees, club licensees, *etc.* — Rule is not discriminatory — These two types of licensees who come into contact with public at large, constitute distinct class apart from other types of licensees and their classification as separate category of licensees for purpose of applying rule is reasonable.

Article 14 does not forbid reasonable clarification for the purpose of legislation. In the present case, among the various categories of licencees, it is CL-2 and CL-9 licensees who come into contact with public at large and offer liquor for sale. According to the information collected by the State, the business transacted by these categories of licensees is so meagre and insufficient even to meet the prescribed licence fee. This clearly indicates that there was purchase and sale of liquor clandestinely leading to evasion of huge amounts of excise duty. In order to plug these loopholes and in the interest of revenue, the State under the impugned notification referred only CL-2 and CL-9 licensees and excluded the other categories of licensees. This classification by the State can neither be said arbitrary nor discriminatory. To achieve the object which is expedient, the State in its wisdom included the CL-2 and CL-9 licensees in the impugned notification. It is clear that the differenciation has a rational relation to the object sought to be achieved by the impugned notification. Therefore, the contention that the impugned notification is violative of Article 14 of the Constitution is liable to be rejected. — *State of Karnataka and Others v Hotel Bangalore International Limited, Bangalore and Others,* **2005(2) Kar. L.J. 503B (DB) : ILR 2005 Kar. 1397 (DB).**

Rules 14(2), 14-A and 14-B — Constitution of India, Articles 19(1)(g) and (6), 14, 47, 300-A, 301 and 304 — Intoxicant liquors — Right to carry on trade or business in — Not fundamental right — Activities which are injurious to health, safety and welfare of public at large are *res extra commercium* which State can prohibit absolutely or permit with restrictions and limitations — Restrictions and limitations on trade or business in intoxicant liquors can be

imposed both under Article 19(6) of Constitution or otherwise and can be by subordinate legislation as well — Rule requiring retail shop licensees and bar licensees to lift minimum quantity of liquor fixed for them only from wholesale dealers, is not violative of their fundamental right.

A citizen has no fundamental right to trade in intoxicating liquors. . . . . We reject the contention of respondents that the impugned notification is violative of Article 19(1)(g) of the Constitution. — *State of Karnataka and Others v Hotel Bangalore International Limited, Bangalore and Others,* **2005(2) Kar. L.J. 503C (DB) : ILR 2005 Kar. 1397 (DB).**

[1][**14-A. Verification of Accounts.**—x x x x x.

14-B. Verification of accounts by the Inspector of Excise before and after the renewal of licences.—x x x x x.]

[2][**15. Suspension or cancellation of a licence.**—x x x x x.]

16. Repeal and savings.—All rules corresponding to the foregoing rules made under any enactment repealed by Section 72 of the Act are hereby repealed:

Provided that the repeal shall not affect,—

(a) the previous operation of the rules so repealed or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any rule so repealed, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any rule so repealed, or

(d) any investigation or legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if such rules had not been repealed:

Provided further that subject to the preceding proviso anything done or any action taken (including any appointment or delegation made, notification, order, instructions, or direction issued, form, certificate obtained, permit or licence granted or registration effected under any such rules) shall be deemed to have been done or taken under the corresponding provisions of these rules and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the Act or these rules as the case may be.

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1. Rule 14-A and 14-B omitted by Notification No. FD 06 PES 2011, dated 1-8-2014, w.e.f. 1-8-2014.
2. Rule 15 omitted by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.

[1][[2][FORM CL-1A]

[See Rule 4]

[3][Application for grant or renewal of licence] for running .... under Rule 4 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968.—

1. Name of the applicant,
2. Full address,
3. Whether individual or firm or company,—
   (a) If a firm, furnish the names and addresses of all partners and copy of the partnership deed;
   (b) If a company, furnish a copy of the Memorandum and Articles of Association together with names and addresses of all the Directors of the Company.
4. Type of licence required,
5. Furnish the details of the following information,—
   (a) exact location of the premises where the applicant intends to conduct the business under a licence;
   (b) the exact distance from any religious/charitable/educatinal institutions situated in the vicinity of the promises selected to conduct the business;
   (c) whether the applicant has enclosed the treasury challan for having credited the prescribed licence fee;
   (d) whether the applicant has been convicted of,—
      (i) any cognizable and non-bailable offence;
      (ii) any offence under the Karnataka Excise Act, 1965;
      (iii) any offence under the Narcotic drug and Psychotropic substance Act, 1985;
      (iv) any offence under the medicinal and toilet preparation (excise duties) Act, 1955;
      (v) any offence under Sections 481, 482, 483, 484, 485, 486, 487 and 499 of Indian Penal Code;
   (e) whether the applicant is in arrears of excise duty or sales tax in respect of liquor sold by him.

1. Form CL-A1 inserted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
2. Substituted for the heading "Form CL-A1" by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
3. Substituted for the words "Application for grant of a licence" by Notification No. FD 20 PES 2002, dated 1-4-2003, w.e.f. 1-4-2003.

DECLARATION

I/We declare that the particulars mentioned in the application are corr

I/We hereby undertake to abide by the condition of licence and provision of Karnataka Excise Act, 1965 and the rules framed thereunder.

[1][I/We hereby undertake to lift the minimum quantity of liquor prescribed under the Karnataka Excise Act, 1965 or the Rules framed thereunder or under the conditions of the licence from time to time.]

Place:

Dated: Signature of the applicant.]

[2][FORM CL-1

Liecence for Wholesale Vend of Indian Made liquors Other Than Arrack, Foreign Liquors or Both

x x x x x]

[3][FORM CL-1 (Beer)

[See Rule 3 of clause (1-B)]

Licence for wholesale vend of beer

x x x x x]

FORM CL-2

[See Rule 3(2)]

Licence for the retail off vend of [4][Indian liquor (other than arrack)] or Foreign liquor, or both.

Register No......................................

Name of licence holder...................

[5][Address of Licence holder .... and Address of Licence ....]

		Town ....
Locality		Street........................
		Door No...................

I, ... the Deputy Commissioner of the .... District in consideration of the payment of the prescribed licence fee of Rs. .... do hereby authorise Sri .... son of Sri .... residing in .... to sell [6][Indian liquor (other than arrack)] or Foreign liquor or both at premises No. .... situated in .... subject to the conditions prescribed below.

1. Inserted by Notification No. FD 20 PES 2002, dated 1-4-2003, w.e.f. 1-4-2003.
2. Form CL-1 omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.
3. Form CL-1 (Beer) omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.
4. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
5. Substituted for the words "Name of agent or vendor" by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
6. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or which may from time to time be prescribed thereunder.

2. The privilege under this licence extends to the sale of [1][Indian liquor (other than arrack)] or Foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished should be approved by the Deputy Commissioner. No liquors below the strength of 25^0 [2][under proof] in case of brandy, Whiskey and Rum and 35^0 [3][under proof] in case of Gin and not more than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

[4][2-A. x x x x x.]

3. The holder of this licence shall upon requisition by any Officer not below the grade of an Sub-Inspector of Excise be bound to produce to such officer the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to allow the samples of liquors in the shop to be tested.

4. The licensee is bound to maintain correct daily accounts of transactions and submit the return every month to the Excise Officers concerned, within the first week of the following month.

5. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for breach of any of the conditions of the licence, under the provisions of the Act or the rules and orders thereunder.

6. The licence shall continue in force till the................

7. The sale of liquor to the public will be in sealed bottles of capacity of [5][0.060, 0.090], 0.180, 0.300, 0.375, 0.600 [6][0.750 litres and one litre] in respect of liquors and 0.325 and 0.650 litres in the case of beer. The maximum quantity of liquors and beer to be sold at a time should not exceed:

(1) Foreign liquors	9.1 litres
(2) Indian liquors (other than arrack)	[7][4.6 litres]
(3) Beer	18.2 litres

1. Substituted for the words "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.
3. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.
4. Condition 2-A as inserted by Notification No. FD 20 PES 2002, dated 1-4-2003, w.e.f. 1-4-2003 and again **omitted by Notification No. FD 17 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016.**
5. Inserted by Notification No. FD 06 PES 2011, dated 1-8-2014, w.e.f. 1-8-2014
6. Substituted for the words and figures "and 0.750 litres" by GSR 93, dated 30-4-1993, w.e.f. 30-4-1993.
7. Substituted for the figures and word "2.3 litres" by Notification No. FD 06 PES 2011, dated 1-8-2014, w.e.f. 1-8-2014

[1][Provided that the Excise Commissioner may for reasons to be recorded in writing, permit the sale of liquor in any other quantity.]

8. No liquor shall be allowed to be drunk on the premises.

[2][8-A. The licensee shall sell or permit to sell Indian Liquor or Foreign Liquor or both at prices not exceeding the Maximum Retail Price (MRP) indicated on the labels of the bottles as declared under Rule 2-AF of the Karnataka Excise (Excise Duties and Fees) Rules, 1968 and issue bills to the customers accordingly.]

9. The opening and closing hours shall be from [3][9-00 a.m. to 10-30 p.m.]

[4][10. There shall be only one and the same entrance and exit for the shop.]

Office of the Deputy Commissioner

.... District — Deputy Commissioner

Date .... — ....District

[5][FORM CL-3
x x x x]

FORM CL-4
[See Rule 3(4)]

Licence for Clubs [6][x x x x] established for supply of [7][Indian Liquor (other than arrack)] or Foreign liquor or both to the members only.

Register No............................

Name of licence holder..................

[8][Address of Licence holder .... and Address of Licence ....]

Locality — Town.......................... Street............................ Door No........................

I, ... the Deputy Commissioner of the .... District in consideration of the payment of the prescribed

1. Proviso inserted by GSR 93, dated 30-4-1993, w.e.f. 30-4-1993.
2. Inserted by Notification No. FD 7 PES 2008(I), dated 15-1-2009, w.e.f. 15-1-2009.
3. Substituted for the figures, letters and word "9-00 A.M. to 12-00 Midnight" by GSR 145, dated 3/8-5-1979, w.e.f. 10-5-1979.
4. Condition 10 inserted by Notification No. FD 06 PES 2011, dated 1-8-2014, w.e.f. 1-8-2014
5. Form CL-3 omitted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
6. The words "and Co-operative Societies" omitted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
7. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
8. Substituted for the words "Name of agent or vendor" by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016

licence fee of Rs. .... do hereby authorise Sri. .... son of Sri. .... residing in .... to sell [1][Indian Liquor (other than arrack)] or Foreign liquor or both at premises No. .... situated in .... subject to the conditions prescribed below.—

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or which may from time to time be prescribed thereunder.

2. The privilege under this licence extends to the sale of [2][Indian liquor (other than arrack)] or Foreign liquors of the brands furnished by the licensee. Any alterations and additions to the list furnished should be approved by the Deputy Commissioner. No liquors below the strength of 25° [3][under proof] in case of Brandy, Whisky, and Rum and 35° [4][under proof] in case of Gin and not more than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

3. The holder of this licence shall upon requisition by any Officer not below the grade of a sub Inspector of Excise be bound to produce to such officer the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the shop to be tested.

4. The licensee is bound to maintain correct daily accounts of transactions and submit the return every month to the Excise Officers concerned, within the first week of the following month.

5. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for breach of any of the conditions of the licence, under the provisions of the Act or the rules and orders thereunder.

6. The licence shall continue in force till the.........

7. Under this licence the privilege extends to the sale of liquor to the members only.

8. The opening and closing hours shall be from [5][9-00 a.m. to 12-00 midnight].

Office of the Deputy Commissioner

.... District | Deputy Commissioner

Date............ | District........

1. Substituted for the word "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the word "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.
4. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.
5. Substituted for the figures, letters and words "11-00 a.m. to 12-00 midnight" by GSR 409, dated 23-11-1976, w.e.f. 9-12-1976.

FORM CL-5

[See Rule 3(5)]

Occasional licence for the sale of [1][Indian Liquor (other than arrack)] or Foreign liquor or both.

Register No........................

Name of licence holder........................

[2][Address of Licence holder .... and Address of Licence ....]

Locality: Town............................ Street.......................... Door No.....................

I, ... the Deputy Commissioner of the .... District in consideration of the payment of the prescribed licence fee of Rs. .... do hereby authorise Sri. .... son of Sri. .... residing in .... to sell [3][Indian Liquor (other than arrack)] or Foreign liquor or both at Premises No. .... situated in .... subject to the conditions prescribed below.—

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or which may from time to time be prescribed thereunder.

2. The privilege under this licence extends to the sale of [4][Indian Liquor (other than arrack)] or Foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished should be approved by the Deputy Commissioner. No liquors below the strength of 25° [5][under proof] in case of Brandy, Whisky and Rum and 35° [6][under proof] in case of Gin and not more than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

3. The holder of this licence shall upon requisition by any officer not below the grade of sub Inspector of Excise be bound to produce to such officer the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the shop to be tested.

1. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the words "Name of agent or vendor" by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
3. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
4. Substituted for the word "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
5. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.
6. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.

4. This licence shall continue in force till........

Date Deputy Commissioner,

.........................District

Schedule showing the boundaries of the shop

Street, Door No. and Other Particulars	Bounded on the—				Remarks
^	North by	East by	South by	West by	

FORM CL-6

[See Rule 3(6)]

Special licence for the sale of [1][Indian liquor (other than arrack)] or Foreign liquor, or both.

Register No.............................

Name of licence holder....................

[2][Address of Licence holder .... and Address of Licence ....]

Town..............................

Locality Street............................

Door No.......................

I, ... the Deputy Commissioner of the .... District in consideration of the payment of the prescribed licence fee of Rs. .... do hereby authorise Sri. .... son of Sri. .... residing in .... to sell [3][Indian liquor (other than arrack)] or Foreign liquor or both at Premises No. .... situated in .... subject to the conditions prescribed below.—

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or which may from time to time be prescribed thereunder.

1. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the words "Name of agent or vendor" by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
3. Substituted for the word "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.

2. The privilege under this licence extends to the sale of [1][Indian liquor (other than arrack)] or Foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished should be approved by the Deputy Commissioner. No liquors below the strength of 25^0 [2][under proof] in case of Brandy, Whisky and Rum and 35^0 [3][under proof] in case of Gin and not more than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

3. The holder of this licence shall upon requisition by any officer not below the grade of sub Inspector of Excise be bound to produce to such officer the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the shop to be tested.

4. The licensee is bound to maintain correct daily accounts of transactions and submit the return every month to the Excise Officer concerned, within the first week of the following month.

5. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for breach of any of the conditions of the licence, under the provisions of the Act or the rules and orders thereunder.

6. This licence shall continue in force till the........

7. The liquor sold shall be consumed on the premises only.

8. No liquor which is not one of the brand admitted into this licence shall be sold.

9. No liquor shall be sold in any quantity whatever to any Police or Excise Officer while on duty.

Dated the .... day of .... 19.........

Office of the Deputy Commissioner

.... District Deputy Commissioner

.... District

1. Substituted for the word "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.
3. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.

[1][FORM CL-6A

[See Rule 3, Clause 6-A]

Star Hotel Licence

Licence for the sale of Indian Liquor (other than arrack) or Foreign Liquor or both to be drunk in the premises, combined with meals and refreshments in the hotel

Register No. ....

Name of Licence holder..............

Town...

Locality/Street.................................

Door No...

I, ... the Deputy Commissioner .... District in consideration of the payment of the prescribed licence fee of Rs. .... do hereby authorise .... to possess and sell Indian liquor (other than arrack) or foreign liquor or both at Premises No. .... situated in .... subject to the conditions prescribed below:

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and rules made thereunder and the orders issued by the Excise Commissioner/Deputy Commissioner from time to time.

2. The privilege under this licence extends to the sale of Indian liquor (other than arrack) or foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished should be approved by the Commissioner. No liquors below the strength of 25^0 (under proof) in case of Brandy, Whisky and Rum and 35^0 (under proof) in case of Gin and not more than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

3. The holder of this licence shall upon requisition by any officer not below the grade of a Sub-Inspector of Excise be bound to produce to such officer, the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the shop to be tested.

4. The licensee is bound to maintain correct daily accounts of transactions and submit the returns every month to the Excise Officers concerned, within the first week of the following month.

5. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for breach of any of the conditions of the licence, under the provisions of the Act or the Rules and Order thereunder.

6. The licence shall continue in force till the..............

1. Form Cl-6A inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002.

7. The sale of liquor is restricted to the residents and boarders for consumption in the premises along with the refreshments/meals supplied to them.

[1][8. The opening and closing hours of business shall be from 9.00 A.M. to 12.00 Midnight.]

Office of the Deputy Commissioner.

......................District Deputy Commissioner]

FORM CL-7

[See Rule 3(7)]

Licence for the sale of [2][Indian liquor (other than arrack)] or Foreign liquor or both to be drunk in the premises, combined with meals and refreshments in the Hotel and Boarding House.

Register No. ....

Name of licence holder.....................

[3][Address of Licence holder .... and Address of Licence ....]

Town..................................

Locality Street

Door No.

I, ... the Deputy Commissioner of the .... District in consideration of the payment of the prescribed licence fee of Rs. .... do hereby authorise Sri. .... son of Sri. .... residing in .... to sell [4][Indian liquor (other than arrack)] or Foreign liquor or both at Premises No. .... situated in .... subject to the conditions prescribed below:—

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or which may from time to time be prescribed thereunder.

2. The privilege under this licence extends to the sale of [5][Indian liquor (other than arrack)] or Foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished should be approved by the

1. Condition No. 8 substituted by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
2. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Substituted for the words "Name of agent or vendor" by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
4. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
5. Substituted for the word "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.

[1][FORM CL-6A

[See Rule 3, Clause 6-A]

Star Hotel Licence

Licence for the sale of Indian Liquor (other than arrack) or Foreign Liquor or both to be drunk in the premises, combined with meals and refreshments in the hotel

Register No. ....

Name of Licence holder...............

Town..

Locality/Street.................................

Door No..

I, ... the Deputy Commissioner .... District in consideration of the payment of the prescribed licence fee of Rs. .... do hereby authorise .... to possess and sell Indian liquor (other than arrack) or foreign liquor or both at Premises No. .... situated in .... subject to the conditions prescribed below:

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and rules made thereunder and the orders issued by the Excise Commissioner/Deputy Commissioner from time to time.

2. The privilege under this licence extends to the sale of Indian liquor (other than arrack) or foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished should be approved by the Commissioner. No liquors below the strength of 25⁰ (under proof) in case of Brandy, Whisky and Rum and 35⁰ (under proof) in case of Gin and not more than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

3. The holder of this licence shall upon requisition by any officer not below the grade of a Sub-Inspector of Excise be bound to produce to such officer, the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the shop to be tested.

4. The licensee is bound to maintain correct daily accounts of transactions and submit the returns every month to the Excise Officers concerned, within the first week of the following month.

5. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for breach of any of the conditions of the licence, under the provisions of the Act or the Rules and Order thereunder.

6. The licence shall continue in force till the..............

1. Form Cl-6A inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002.

7. The sale of liquor is restricted to the residents and boarders for consumption in the premises along with the refreshments/meals supplied to them.

[1][8. The opening and closing hours of business shall be from 9.00 A.M. to 12.00 Midnight.]

Office of the Deputy Commissioner.

......................District — Deputy Commissioner]

FORM CL-7

[See Rule 3(7)]

Licence for the sale of [2][Indian liquor (other than arrack)] or Foreign liquor or both to be drunk in the premises, combined with meals and refreshments in the Hotel and Boarding House.

Register No. ....

Name of licence holder.....................

[3][Address of Licence holder .... and Address of Licence ....]

Town.................................

Locality Street

Door No.

I, ... the Deputy Commissioner of the .... District in consideration of the payment of the prescribed licence fee of Rs. .... do hereby authorise Sri. .... son of Sri. .... residing in .... to sell [4][Indian liquor (other than arrack)] or Foreign liquor or both at Premises No. .... situated in .... subject to the conditions prescribed below:—

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or which may from time to time be prescribed thereunder.

2. The privilege under this licence extends to the sale of [5][Indian liquor (other than arrack)] or Foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished should be approved by the

1. Condition No. 8 substituted by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
2. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Substituted for the words "Name of agent or vendor" by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
4. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
5. Substituted for the word "Indian" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.

Commissioner. No liquors below the strength of 25° [1][under proof] in case of Brandy, Whisky and Rum and 35° [2][under proof] in case of Gin and not more than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

3. The holder of this licence shall upon requisition by any officer not below the grade of sub Inspector of Excise be bound to produce to such officer the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the shop to be tested.

4. The licensee is bound to maintain correct daily accounts of transactions and submit the return every month to the Excise Officers concerned, within the first week of the following month.

5. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for breach of any of the conditions of the licence, under the provisions of the Act or the rules and orders thereunder.

6. This licence shall continue in force till the........

7. The sale of liquor is restricted to the residents for their - own use and that of their guests requiring liquor with the meals supplied to them.

8. The opening and closing hours shall be from [3][9 a.m. to 12 midnight].

Office of the Deputy Commissioner Deputy Commissioner

...............District ....District.

FORM CL-7A AND FORM CL-7B NOT INTRODUCED

[4][FORM CL-7C

[See Rule 3(7-C)]

Licence to supply liquor on Board of Train engaged and run by Tourism Development Corporation of State Government or Central Government

I, ... the Deputy Commissioner of the Bangalore Urban District in consideration of the payment of the prescribed licence fee of Rs. ...... do hereby to grant and issue to .... (hereinafter called the 'licensee'), to possess and supply liquor on board of train (here mention name and number of the train) subject to the conditions prescribed below:

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and rules made thereunder and the orders issued by the Excise Commissioner/Deputy Commissioner from time to time.
2. The privilege conferred herein is restricted to the possession and sale of Indian liquor or foreign liquor or both to the travelers traveling in the train mentioned above for consumption on board of the train.
3. Under this licence no liquor shall be sold to persons other than those traveling in the said train.
4. The liquor permitted to be possessed for sale under this licence shall be obtained from KSBCL Depot and no liquor procured from any other source shall be sold in the train.
5. The holder of this licence shall upon requisition by any officer not below the grade of a Sub-Inspector of Excise be bound to produce to such officer, the original invoice showing the importation of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the train to be tested.
6. The licensee is bound to maintain correct daily accounts of transactions and submit the returns every month to the Excise Officers concerned, within the first week of the following month.
7. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for breach of any of the conditions of the licence, under the provisions of the Act or the rules and order thereunder.
8. The licence shall be valid during the stay of the train within the limits of Karnataka State.]

1. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.
2. Substituted for the letters "U.P." by GSR 216, dated 13-6-1969, w.e.f. 26-6-1969.
3. Substituted for the figures, letters and words "11 a.m. to 12.00 midnight" by GSR 409, dated 23-11-1976, w.e.f. 9-12-1976.
4. Form CL-7-C inserted by Notification No. FD 01 PES 2008, dated 25-3-2008, w.e.f. 25-3-2008.

[1][FORM CL-7D

[See Rule 3(7-D)]

Licence for the sale of Indian liquor (other than arrack) or Foreign liquor or both to be drunk in the premises, combined with meals and refreshments in the Hotel and Boarding House owned by the person belonging to Scheduled Castes and Scheduled Tribes.

Register No.

Name of the Licence holder

Name of the Agent or Vendor

	Town.....................
Locality	Street
	Door No.

1. Form CL-7-D inserted by Notification No. FD 14 PES 2013, dated 9-6-2014, w.e.f. 9-6-2014.

I, ... the Deputy Commissioner of .... District in consideration of the payment of the prescribed licence fee of Rs. ...... do hereby authorise Sri .... son of Sri. .... residing in .... to sell Indian liquor (other than arrack) or Foreign liquor or both at Premises No. .... situated in .... subject to the conditions prescribed below.—

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965, and any general specific rules prescribed or which may from time to time be prescribed thereunder.

2. The privilege under this licence extends to the sale of Indian liquor (other than arrack) or Foreign liquors of the brands furnished by the licensee. Any alterations and additions to the lists furnished shall be approved by the Commissioner. No liquors below the strength of 25° UP (under proof) in case of Brandy, Whisky and Rum and 35° UP (under proof) in case of Gin and not more than 8 per cent of alcohol by volume in case of Beer will ordinarily be included in the list.

3. The holder of this licence shall upon requisition by any officer not below the rank of Sub-Inspector of Excise be bound to produce to such officer the original invoice showing the procurement of all liquors for the sale of which this licence is granted for inspection and to all the samples of the liquors in the shop to be tested.

4. The licensee is bound to maintain correct daily accounts of transactions and submit the return every month to the Excise Officer concerned, within the first week of the following month.

5. The licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and licensee or his employee shall be liable for prosecution for beach of any of the conditions of the licence, under the provisions of the Act or the rules and orders there under.

6. The licence shall continue in force till the.....

7. The sale of liquor is restricted to the residents for their own use and that of their guests requiring liquor with the meals supplied to them,

8. The opening and closing hours shall be from 9.00 AM to 12 midnight.

Office of the Deputy Commissioner	Deputy Commissioner
.... District.	.... District.]

FORM CL-8

[See Rule 3(8)]

Licence of sale of [1][Indian liquor (other than arrack)] or Foreign liquor or both in Military Canteens.

I, ... the Deputy Commissioner of the .... District under the provisions of the Karnataka Excise Act, 1965 and rules hereunder and in consideration of the payment of the prescribed licence fee of Rs. .... do hereby licence the officer commanding I/c .... to sell [2][Indian liquor (other than arrack)] or foreign liquor or both at the canteen situated at .... during the year .... ending with .... subject to the following conditions.

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and Rules and the general or special rules prescribed or which may from time to time be prescribed thereunder.

2. The licensee shall be bound to conform to all the general conditions applicable to all the Excise privileges as may be notified in the sale notification issued annually.

3. The privilege under this licence extends to the retail sale of [3][Indian liquor (other than arrack)] or Foreign liquor or both to the Military personnel stationed at the................ Unit..................

4. The licensee shall effect sale of liquor only at the canteen or place appointed for the purpose by the Military authorities. The liquor shall also be stored in the same premises.

5. The licensee shall obtain his requirements of liquor from the Canteen Stores Department on permits issued by the Excise authorities.

6. The licensee shall pay excise duty, cesses and litre fee in advance at the prevailing rates at the time of purchase from the Canteen Stores Department.

7. The licensee shall upon requisition by any Officer not below the grade of [4][Sub-Inspector of Excise] be bound to produce to such officer or to any Excise Officer empowered by such officer the original invoice relating to the purchase of all liquors for the sale of which this licence is granted and to allow the samples of the liquors in the shop to be tested.

Office of the Deputy Commissioner
.... District
Date.............

Deputy Commissioner
...............District

1. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
4. Substituted for the words "an Assistant Commissioner" by Notification No. FD 17 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016

[1][FORM CL-8A

[See Rule 3(8-A)]

Licence for Military canteen stores bounded warehouse to import, export stores and supply Indian made foreign liquor (other than arrack) or Foreign liquor or both

Licence No.

Name of Licence Holder

Licenced Premises: Bounded in the
East :
West :
North :
South :

I, ... the Excise Commissioner in Karnataka, Bangalore in consideration of the prescribed licence fee of Rs. .... do hereby grant and issue to .... (hereinafter called the "Licensee") at .... to establish a Bonded warehouse to import, export, purchase and deposit or stock Indian made liquor (other than arrack) or Foreign liquor or both without payment of excise duty and to supply/sell such Indian made liquor (other than arrack) in wholesale after payment of excise duty to other Military Canteen Stores licensees in Form CL-8 within the State, at the above mentioned premises subject to the following conditions; namely.—

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and Rules made thereunder.

2. The privilege under this licence extends only for import, export, purchase and deposit or stock IML (other than arrack) and Foreign liquor, without payment of excise duty and to supply/sell such IML and foreign liquor (other than arrack) to other Canteen Stores licensees under Form CL-8 within the State after payment of excise duty.

3. The licensee shall purchase liquor only from the Distilleries/Breweries/Wineries/Distributors licenced in the State.

4. The licensee shall import liquor only from licenced distillerise or other wholesale licensees or other canteen stores licensees from outside the State.

5. The licensee may export liquor without pre-payment of excise duty but subject to payment of export duty/fee.

6. The import, export and transport of liquor shall be covered by the permit issued by the competent Excise authorities.

7. The licensee shall not sell less than nine litres of liquor at a time.

1. Form CL-8A inserted by GSR 152, dated 24-6-1988, w.e.f. 1-7-1988.

8. No retail sale or consumption of liquor shall be allowed in the licensed premises.

9. The licensee shall pay the establishment and supervisory charges in respect of the Excise staff posted at the licensed premises in advance once in a quarter.

10. The licensee shall upon requisition by any officer not below the rank of sub Inspector of Excise is bound to produce the original invoice showing the importation of all kinds of liquor for inspection and to allow the samples of the liquors in the shop to be tested.

11. The licensee shall maintain a true and correct daily accounts of transactions and submit the returns every month to the concerned Excise Officer within the first week of next succeeding month.

12. The licence shall continue in force till............

13. The licensee shall pay excise duty and litre fee etc., on all breakages exceeding one per cent.

14. The licencee shall keep the consignment received under double lock in the Warehouse.

15. Infraction of the licence conditions by the licensee or his employee will render the licence holder liable for penalties and cancellation of the licence under the provisions of the Karnataka Excise Act, 1965.

Office of the Excise Commissioner in Karnataka, Bangalore

........................Excise Commissioner/Deputy Commissioner]

[1][FORM CL-8B

[See Rule 3(8-B)]

Licence for sale of Indian Liquor (other than arrack) of Foreign Liquor or both for Border Security Force or Para Military Units.

I, ... the Deputy Commissioner of the Excise Act, 1965 and Rules thereunder and in consideration of the payment of the prescribed licence fee of Rs. .... do hereby licence the officer commanding I/C..... ..... to sell Indian Liquor (other than arrack) or Foreign Liquor or both at.... ..... during the year......... ending with......... subject to the following conditions.

CONDITIONS

1. The licensee shall be bounded by the provisions of the Karnataka Excise Act, 1965 and Rules and the General or special rules prescribed or which may from time to time be prescribed thereunder.

1. Form CL-8B inserted by Notification No. FD 12 PES 95(iv), dated 29-6-1996, w.e.f. 29-6-1996.

ಅನುಬಂಧ-3

[1]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF BEER) RULES, 1976

CONTENTS

(As amended by GSR 150, dated 14-6-1978; GSR 298, dated 11-10-1980; GSR 63, dated 8-4-1991; GSR 33, dated 11-2-1992; Notification Nos. FD 10 PES

1. Published in the Karnataka Gazette, dated 5-8-1976, vide Notification No. HD 16 PET 75(II), dated 27-7-1976.

95(iv), dated 31-5-1995; FD 7 PES 98(v), dated 18-6-1998; FD 3 PES 99(i), dated 9-6-1999; FD 10 PES 2002(IV), dated 29-6-2002; FD 32 PES 2002, dated 16-1-2003; FD 36 PES 2003(3), dated 23-2-2004; Notification No. FD 9 PES 2009, dated 25-3-2010 **and FD 09 PES 2014, dated 15-12-2014.**)

GSR 226.—Whereas a draft of the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976 was published as required by sub-section (1) of Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1965) in Notification No. GSR 179 (HD 16 PES 76(II), dated 30th June, 1976 in Part IV, Section 2C(i) of the Karnataka Gazette, Extraordinary, dated 30th June 1976 inviting objections and suggestions from all persons likely to be affected thereby before 15th July, 1976;

And, whereas, the Gazette was made available to the public on 30th June, 1976;

And, whereas, no objections or suggestions have been received on the said draft by the State Government;

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka, hereby makes the following rules, namely.—

1. Title, extent and commencement.—(1) These Rules may be called the **Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976.**

(2) They shall extend to the whole of the State of Karnataka.

(3) They shall come into force from 1st July, 1976.

2. Definitions.—In these rules, unless the context otherwise requires,

(a) "**Act**" means the Karnataka Excise Act, 1965;

(b) "**Beer**" means any liquor prepared from malt or grain with or without the addition of sugar and hops and includes ale, black beer, porter, stout and spruce beer;

(c) "**Form**" means a form appended to these rules;

(d) "**Licence**" means a licence issued under these rules;

(e) "**Year**" means year commencing on the first day of July and ending June 30th;

(f) "**Shop**" means the shop licensed for retail vend of Beer under these rules;

(g) "**Lease**" means a lease granted under these rules for retail vend of Beer in a shop.

3. Lease of Retail Vend of Beer.—A person desiring to obtain a lease for retail vend of Beer under these rules, may make an application to the Deputy Commissioner in Form I. The application shall be accompanied by a Treasury Challan for having credited the lease amount prescribed in Rule 5.

4. Grant of Lease of Retail vend of Beer.—On receipt of the application under Rule 3, the Deputy Commissioner may after making such enq[illegible]or purpose of verification of the particulars furnished by the applican[illegible]nd having regard to the provisions of Rule 4-A, if he is satisfied] that there is no objection to lease the right of retail vend of Beer, he may with the previous sanction of the Excise Commissioner, grant the lease.

[2][**4-A. Matters to be taken into account while granting lease.**—The Deputy Commissioner, shall, while granting lease under these rules, have regard to,—

(i) the availability of rooms for serving Beer along with eatables for consumption;

(ii) adequate seating arrangements;

(iii) the provision for separate toilet with running water facilities.]

[3][**5. Lease amount.**—(1) The lease amount for the Right of Retail Vend of Bulk Beer shall be rupees thirty thousand per annum and lease amount for vending Bulk Beer by holder of [4][[5][a licence in Form CL-4 or Form CL-6A or Form CL-7 [6][or Form CL-7D] or Form CL-9] issued under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968] shall be rupees fifteen thousand per annum, and

(2) The lease amount for the Right of Retail Vend of Bottled Beer shall be rupees four thousand five hundred per annum.]

[7][**5-A. Additional lease amount.**—In respect of a lease granted under these rules, an additional lease amount equivalent to fifteen per cent as specified in Rule 5, shall be levied for the purpose of various infrastructure projects across the State, equity investment in Bangalore Mass Rapid Transit Limited and for establishing a Mukhya Manthri Grameena Rasthe Abhivruddhi Nidhi in the proportion of 57:28:15 respectively.]

[8][**6. Duration of Lease.**—The lease shall be for a period of three years subject to annual renewal and also subject to good behaviour and payment of lease amount as specified in Rule 5.]

7. Licence.—On granting lease under Rule 4, of the Deputy Commissioner shall issue a licence to the licensee in Form No. II. The said licence shall be subject to the conditions specified thereon.

1. Substituted for the words "and if he is satisfied" by GSR 63, dated 8-4-1991, w.e.f. 8-4-1991.
2. Rule 4-A inserted by GSR 63, dated 8-4-1991, w.e.f. 8-4-1991.
3. Rule 5 substituted by Notification No. FD 3 PES 99(i), dated 9-6-1999, w.e.f. 1-7-1999.
4. Substituted for the words "Bar Licence" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003
5. Substituted for the words, letters and figures "a licence in Form CL-6A or Form CL-7 or Form CL-9" by Notification No. FD 9 PES 2009, dated 25-3-2010, w.e.f. 25-3-2010
6. Inserted by Notification No. FD 09 PES 2014, dated 15-12-2014, w.e.f. 16-12-2014
7. Rule 5-A substituted by Notification No. FD 36 PES 2003(3), dated 23-2-2004 and shall be deemed to have come into force w.e.f. 1-2-2004
8. Rule 6 substituted by GSR 298, dated 11-10-1980, w.e.f. 11-10-1980.

CASE LAW

Rule 7 — Granting of licence in Form II for retail vend of beer — On facts and circumstances — Appellant permitted to file fresh application for issue of licence in Form II — Respondent-authorities to receive and consider the same in accordance with law without being prejudiced by observation made in writ petition order.

N.K. Patil and Mrs. S. Sujatha, JJ., Held: In the light of the submission made by learned Counsel appearing for both the parties and having regard to the peculiar facts and circumstances of the case, without expressing any opinion on merits of demerits of this case, it would suffice for this Court to dispose of the appeal with appropriate direction to the parties to meet the ends of justice and to safeguard the interest of appellant as well as respondents........ The appellant herein is permitted to file fresh application for issue of licence in Form 2 for retail vend of beer as contemplated under the Karnataka Excise (Lease of Retail Vend of Beer) for the excise year 2016-2017 which commences from 1st July, 2016, before the expiry of this excise year. If such an application is filed by the appellant, the respondents-authorities are directed to receive and consider the same in accordance with law, and dispose of the same after affording reasonable opportunity of hearing to the appellant as expeditiously as possible and without being prejudiced by the observation made in the order impugned dated 13-9-2012 passed by the learned Single Judge in W.P. No. 15851 of 2012. – *Ramesh Bhimagouda Patil v State of Karnataka and Others*, **2016(2) Kar. L.J. 462 (DB).**

[1][7-A. **Number of licences to be fixed.**—(1) The maximum number of licences to be granted in an area shall be determined from time to time by the Excise Commissioner with the previous approval of the State Government.

(2) The number of retail vend of Beer licences to be granted in a taluk shall be determined with reference to the population of such taluk and probable demand.

(3) The number of retail vend of Beer licences to be granted in a taluk shall be as follows.—

(a) One retail vend of Beer licence for every 20,000 population in urban area or a fraction thereof exceeding 10,000 and one retail vend of beer licence for every 30,000 rural population or a fraction thereof exceeding 15,000.

(4) Notwithstanding anything in sub-rule (3) the Excise Commissioner may, with the previous approval of the State Government grant for any area such number of licences not exceeding one half of the total number of licences granted for such area under sub-rule (3) on the basis of increase in consumption of Beer and demand for such licences.

Explanation.—For the purpose of this rule,—

1. Rule 7-A inserted by GSR 63, dated 8-4-1991, w.e.f. 8-4-1991.

(i) **"Population"** means the population as ascertained at the last preceding Census and includes the projected annual growth subsequent to the last preceding Census;

(ii) **"Urban area"** means the areas included within the limits of a city declared under the Karnataka Municipal Corporations Act, 1976 or a City Municipality or a Town Municipality declared under the Karnataka Municipalities Act, 1963.]

8. Duration of Licence.—A licence shall be valid for the year or where a licence is obtained on any date after the first July until the 30th June thereafter.

9. Renewal of Lease.—A lessee in whose favour the lease has been granted desiring to renew the lease on expiry of the lease, may make an application in Form No. I to the Deputy Commissioner at least one month before the expiry of the lease already granted. The application shall be accompanied by a Treasury challan for having credited the lease amount prescribed in Rule 5.

10. Grant of Renewal of Lease.—On receipt of application under rule 9, the Deputy Commissioner may grant the renewal of lease.

11. Renewal of Licence.—On grant of lease under Rule 10 to the lessee, the Deputy Commissioner shall renew the licence for the period mentioned in the lease. The renewal shall also be in Form No. II.

12. Cash Security.—The lessee before grant of a licence shall furnish a cash security of Rs. 1,000 or Government Securities or the Securities recognised by the Government for fulfilment of licenced conditions.

FORM I
[See Rule 3]
Application for Grant of Lease

1.	Name and address of the Applicant	
2.	If the applicant is a company or firm the names and addresses of the Directors or Partners of Company or Firm	
3.	The location of the premises where applicant intends to conduct the business under a lease	

4.	Whether [1][lease amount] prescribed under these rules is paid; if so the application shall be accompanied by a Treasury Challan for having credited the lease amount prescribed in Rule 5	

Place:
Date: Applicant

FORM II

(See Rule 7)

PART-A

Licence for the retail sale of Beer

1	Registration No.	
2	Name of the Licensee	
3	Name of the Agent or Vendor	
4	Locality: (a) Town (b) Street (c) Door No.	

I, ... the Deputy Commissioner .... District consideration of the payment of the prescribed lease amount of [2][Rs. .... (Fill in here lease amount prescribed under Rule 5 of the rules)] do hereby authorise Sri. .... S/o Sri. .... residing at .... to sel beer at premises No. .... situated in .... subject to the conditions prescribed in Part 'B' appended below:

Schedule showing the boundaries of the Beer Shop

Street, Door No. and other particulars	Bounded on the				Remarks
	North by	East by	South by	West by	

1. Substituted for the words and figures "a lease amount of Rs. 500/-" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003.
2. Substituted for the words, figures and brackets "Rs. 4,500/- (Rupees Four thousand Five hundred only)" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003.

Seal ....
Place Deputy Commissioner
Date ....District.

PART-B

CONDITIONS

(1) The Licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or which may from time to time be prescribed thereunder.

(2) The privilege under this licence is restricted to [1][sale of bulk or bottled Beer only.]

(3) The holder of this licence shall upon requisition by any officer not below the rank of Sub-Inspector of Excise be bound to produce before such Officer the original Invoice showing the purchase of Beer for the sale of which this licence is granted for inspection and to give samples of Beer in the shop to be tested.

(4) The Licensee is bound to maintain separate correct accounts of daily transactions of each brand of Beer and submit the returns monthly to the jurisdictional Inspector of Excise within the first week of the next following month.

(5) The Licensee shall use metric measures only approved by the Weights and Measure Department.

[2][(5-A) The licensee shall ensure that the bulk Beer supplied to the licenced premises shall be in hygienic condition and sold fresh.]

(6) The Licence shall not be transferable without the previous sanction of the Excise Commissioner.

(7) The agent or the Vendor, as the case may be, shall equally with the Licence holder be responsible for breach of any of the conditions of the Licence.

(8) The shop shall have only one door both for entry and exit.

(9) The Licensee shall fix in a conspicuous place outside his shop a Board on which shall legibly be painted his

name, number of his shop and the article he is licensed to deal in.

(10) If a Vendor opens a cask of a particular brand of Beer and puts on tap, he should not open another cask of the same brand until the previous cask is emptied.

(11) The Licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and the Licensee or his employee shall be

1. Substituted for the words "sale of Beer only", by GSR 298, dated 11-10-1980, w.e.f. 11-10-1980.
2. Condition (5-A), inserted by GSR 63, dated 8-4-1991, w.e.f. 8-4-1991.

liable for prosecution of breach of any conditions of licence under the provisions of the Act or the rules and orders passed thereunder.

(12) The licence shall continue to be in force till 30th of June...................

(13) Beer shall be sold only for consumption in the premises.

(14) The opening and closing hours of the shop for sale of Beer shall be from 9-30 A.M. to 9.30 P.M.

....

Deputy Commissioner, District

FORM III

(See Rule 11)

Application for Renewal of Licence

1.	Name and address of the applicant	
2.	If the applicant is a Company or Firm the names and addresses of the Directors or Partners of Company or Firm	
3.	The location of the premises where the applicant is conducting the business under a lease	
4.	Whether the applicant/firm is licenced to vend Beer under the Karnataka Excise (Lease of right of retail vend of Beer) Rules, 1976	
5.	Particulars of licence held by him/them for retail vend of Beer	

Place:

Date: Applicant

FORM IV

Form B.P.No. 1 For sale of Beer in Brand................

Account book of .... Licence holder/retail in toddy shops.

Month	Date	Opening Balance		Receipt		Quantity	
		Bulk	Bottles	From Whom	Permit No. and Date	Bulk	Bottles
1	2	3	4	5	6	7	8

Total		Issues		Closing Balance		Remarks
Bulk	Bottles	Bulk	Bottles	Bulk	Bottles	
9	10	11	12	13	14	15

Signature of the Licence Holder.

[1]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF BEER) (AMENDMENT) RULES, 1978

GSR 150.—Whereas a draft of the rules further to amend the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976 was published as required by sub-section (1) of Section 71 of the Karnataka Excise Act, 1965, (Karnataka Act 21 of 1966), in Notification No. GSR 118 (HD 14 PES 78), dated 15th May, 1978, in Part IV, Section 2C(i) of the Karnataka Gazette, Extraordinary, dated 15th May, 1978, inviting objections and suggestions from all persons likely to be affected thereby on or before 1st June, 1978.

And, whereas, the said Gazette was made available to the public on 15th May, 1978.

And, whereas, the objections and suggestions received on the said draft have been considered by the State Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1966 (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules, namely.—

1. Title and commencement.—(1) These rules may be called the **Karnataka Excise (Lease of the Right of Retail Vend of Beer) (Amendment) Rules, 1978.**

(2) They shall come into force at once.

2. Amendment of Rules 5 and 6.—In Rules 5 and 6 of the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976, for the letters and figures "Rs. 500", the letters and figures "Rs. 1,200", shall be *substituted.*

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[2]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF BEER) (AMENDMENT) RULES, 1980

GSR 298.—Whereas a draft of the rules further to amend the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976 was published as required by sub-section (1) of Section 71 of the Karnataka Excise Act, 1965, (Karnataka Act 21 of 1966), in Notification No. HD 3 PES 80, dated 19th June, 1980 in the Karnataka Gazette, Extraordinary, in Part IV, Section 2C(i), dated 19th June, 1980, inviting objections or suggestions, if any, from all persons likely to be affected thereby on or before 5th July, 1980.

1. Published in the Karnataka Gazette, dated 15-6-1978, vide Notification No. HD 14 PES 78, dated 14-6-1978.

2. Published in the Karnataka Gazette, Extraordinary, dated 11-10-1980, vide Notification No. HD 3 PES 80, dated 11-10-1980.

And, whereas, the said Gazette was made available to the public on 19th June, 1980.

And, whereas, no objections or suggestions received on the said draft.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965, (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules, namely.—

1. Title and commencement.—(1) These rules may be called the **Karnataka Excise (Lease of the Right of Retail Vend of Beer) (Amendment) Rules, 1980.**

(2) They shall come into force at once.

2. Substitution of new rules for Rules 5 and 6.—For Rules 5 and 6 of the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976, (hereinafter referred to as the said rules), the following rules shall be *substituted*, namely.—

"5. Lease amount.—The lease amount for the right of retail vend of bulk beer shall be Rs. 1,200 per annum and for bottled beer shall be Rs. 3,600 per annum.

6. Duration of lease.—The lease shall be for a period of three years subject to annual renewal and also subject to good behaviour and payment of lease amount as specified in Rule 5."

3. Amendment of Form No. II.—In condition 2 of Part B of Form No. II of the said rules, for the words "Sale of Beer only", the words "Sale of bulk or bottled Beer only" shall be *substituted.*

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[1]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF BEER) (AMENDMENT) RULES, 1991

GSR 63.—Whereas the draft of the following rules further to amend the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976 was published as required by sub-section (1) of Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), in Notification No. HD 24 PES 90, dated 15th March, 1991 in Part IV, Section 2C(i) of the Karnataka Gazette, Extraordinary, inviting objections and suggestions from all persons likely to be affected thereby on or before 30th day of March, 1991.

And, whereas, the said Gazette was made available to the public on 15th March, 1991.

1. Published in the Karnataka Gazette, Extraordinary, dated 8-4-1991, vide Notification No. HD 24 PES 90, dated 8-4-1991.

. **Amendment of Form 1.**—In Form 1 of the said rules, Serial Number 7 entries relating thereto shall be *omitted*.

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[1]THE KARNATAKA EXCISE (BREWERY) (AMENDMENT) RULES, 2007

Whereas, the draft of the following rules further to amend the Karnataka ise (Brewery) Rules, 1967, was published as required by sub-section (1) of tion 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), in ification No. FD 23 PES 2006(3), dated 12-3-2007, in Part IV-A of the nataka Gazette, Extraordinary, inviting objections and suggestions from persons likely to be affected thereby within thirty days from the date of its plication in the Official Gazette.

And whereas, the said Gazette was made available to the public on 3-2007.

And whereas, no objections and suggestions have been received in pect of the said draft by the State Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the rnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of rnataka hereby makes the following rules, namely.—

1. **Title and commencement.—(1)** These rules may be called the **Karnataka cise (Brewery) (Amendment) Rules, 2007.**

(2) They shall come into force from the date of their publication in the ficial Gazette.

2. **Insertion of new Rules 3-B and 3-C.**—After Rule 3-A of the Karnataka cise (Brewery) Rules, 1967, the following shall be *inserted*, namely.—

"**3-B. Transfer of licence in the event of death of the licensee or lessee.**—In the event of death of the licensee or the lessee, during the currency of the licence or lease, the Excise Commissioner may on an application by the legal heir of the deceased licensee or lessee, transfer the licence or the lease as the case may be in his/her favour, if such legal heir is otherwise eligible for grant of licence under the provisions of the Act or rules made thereunder.

3-C. Transfer of licence in other cases.—(1) The Excise Commissioner may on an application by the licensee and subject to payment of transfer fee equivalent to twenty-five per cent of the annual licence fee specified in Rule 5, as the case may be, transfer such licence together with all infrastructure pertaining to the industry in favour of any person named by such licensee, if such person is eligible for grant of a licence under the Act or the rules thereunder.

Published in the Karnataka Gazette, Extraordinary No. 652, dated 4-5-2007, vide Notification No. FD 23 PES 2006(3), dated 4-5-2007.

(2) Nothing in these rules shall apply to transfer of licence under Rule 3-B".

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[1]THE KARNATAKA EXCISE (BREWERY) (AMENDMENT) RULES, 2010

Whereas, the draft of the following rules further to amend the Karnataka Excise (Brewery) Rules, 1967, was published as required by sub-section (1) of Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), in Notification No. FD 10 PES 2009(I), dated 24th February, 2010, in Part IV-A of the Karnataka Gazette, Extraordinary No. 201, dated 24th February, 2010, inviting objections or suggestions from all the persons likely to be affected thereby and notice was given that the said draft will be taken into consideration, after thirty days from the date of its publication in the Official Gazette.

Whereas, the said Gazette was made available to the public on 24th February, 2010.

And whereas, objections and suggestions received have been considered by the Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules further to amend the Karnataka Excise (Brewery) Rules, 1967, namely.—

1. **Title and commencement.—(1)** These rules may be called the **Karnataka Excise (Brewery) (Amendment) Rules, 2010.**

(2) They shall come into force from the date of their publication in the Official Gazette.

2. **Amendment of Rule 2.**—In the Karnataka Excise (Brewery) Rules, 1967 (hereinafter referred to as the 'said rules'), in Rule 2, after clause (o), the following shall be *inserted*, namely.—

"(o1) **"Microbrewery"** means a small brewery situated in a place on the premises of CL-4 or a place on the premises of CL-6A or CL-7 or CL-9 licences issued under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 where Draught Beer is manufactured and the same is served to their customers for consumption within the premises with an installed capacity of not more than one thousand liters per day".

3. **Insertion of new Rule 27-A.**—After Rule 27 of the said rules, the following new rule shall be *inserted*, namely.—

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1. Published in the Karnataka Gazette, Extraordinary No. 18, dated 7-1-2011, vide Notification No. FD 10 PES 2009(I), dated 7-1-2011.

"27-A. **Grant of licence for Microbrewery.**—(1) Any person who possessing a CL-4 or CL-6A or CL-7 or CL-9 licence and desirous of obtaining a licence for a Microbrewery shall apply to the Excise Commissioner in Form 4 through the Deputy Commissioner. The Application shall be accompanied by a treasury challan for having credited the fee specified in sub-rule (2) and full description of the premises, utensils and installed capacity of the Plant per day. The detail in the application shall be checked either by the Deputy Commissioner or some other Officer duly authorised by him in this behalf, who shall certify to the fact, if he finds it correct, and forward it to the Commissioner. The Commissioner may grant Microbrewery licence in Form 5, subject to the following conditions, namely.—

In case of.—

(a) CL-7 licence unless the licensed premises is having a minimum of 100 double rooms in corporation areas and 50 double rooms in other areas;

(b) CL-9 licence unless the licensed premises is having minimum 10,000 Sq. Ft. area and spacious dining hall and parking facility; and

(c) CL-4 licence unless the licensed premises is having minimum 10,000 Sq. Ft. area and spacious parking facility;

in addition to conditions stipulated under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1967.

(2) The fee for grant of Microbrewery licence shall be rupees two lakhs per year and an additional licence fee of rupees equal to fifteen per cent of licence fee.

(3) The licensee shall arrange to check the quality of raw materials used and the liquor produced in the Microbrewery by a chemist holding a degree in Science with chemistry as one of the subject preferably organic-chemistry or bio-chemistry or specialisation in alcohol technology.

(4) The beer so produced in the microbrewery shall be released for sale only after the said Chemist certifies that such beer is fit for human consumption.

(5) The licensee shall arrange to draw the beer samples once in every month and forward the same to the laboratory for analysis. The report so obtained thereon shall be displayed on the premises of Microbrewery".

4. Insertion of new Form 4.—After Form 3 of the said rules, the following Forms shall be *inserted*, namely.—

"FORM 4

[See Rule 27-A]

Application for grant of Microbrewery

To,

The Excise Commissioner in Karnataka, Bangalore

1. Name/s of the Applicant/s with full postal address.
2. The Amount of capital proposed to be invested.
3. The name and description of the place in which the Micro-brewery is situated.
4. Whether project report is submitted.
5. Whether clearance certificate is obtained from Pollution Control Board/Environment Department.
6. Descriptions of vessels and other permanent apparatus.
7. Production capacity of the Microbrewery per day/per annum.
8. Whether Applicant has enclosed the treasury challan for having credited the prescribed licence fees in favour of the Government.

DECLARATION

1. I/We hereby declare that the particulars mentioned in the application are correct.
2. I/We am/are not convicted of any offence under the Karnataka Excise Act or Rules made thereunder or any of the cognizable or non-bailable offences under any other law.
3. I/We have gone through the Karnataka Excise (Brewery) Rules, 1967 relating to the licence applied for by me/us hereunder and am/are conversant with the provisions thereof.
4. I/We hereby undertake to abide by the conditions of the licence and provisions of the Karnataka Excise Act, 1965 and the Rules and regulations made thereunder.

Signature of the Applicant/s.

FORM 5

[See Rule 27-A]

Microbrewery Licence

I, ... Excise Commissioner in Karnataka under the provisions of Rule 27-A of the Karnataka Excise (Brewery) Rules, 1967 hereby licence you .... (hereinafter called the "licensee") to manufacture and serve Beer in your premises at from .... to .... subject to the following conditions to be observed by you, the licensee.

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965. Notifications, Rules and orders made or issued thereunder and the Karnataka Excise (Brewery) Rules, 1967.
2. The licensee shall observe such rules as may be prescribed by the State Government or such instructions and orders as may be issued by the Excise Commissioner from time to time in regard to the control of the manufacture, possession and serving.
3. The Licensee shall be bound by such orders as may be passed by the State Government or the Excise Commissioner concerning the process of manufacture to be adopted and the standards and quality of beer to be produced and served.
4. The Licensee shall provide a saccharometer and a thermometer of a kind to be approved by the Excise Commissioner for testing the gravity of wort in the Brewery. A Hydrometer shall also be provided for testing the strength of the drought Beer.
5. The alcohol content of the beers produced supplied to the customers shall not exceed 8% V/V.
6. The pH, temperature and gravities of the brews upto maturation stage should be recorded and the same is subject to inspection as and when called for by a Competent Authority.
7. The premises to be maintained neat and clean with proper venti-lation, lighting and to meet all safety and emergency standards and the beer dispensing system including glasses, serving tables, *etc.* to be maintained hygienically at all times.
8. Periodic fumigation by certified persons of the storage facility as well as the premises to be done on a routine basis and records maintained.
9. Under no circumstances is beer or any alcoholic drinks to be served to under aged persons.
10. The payment of the licence fees and excise duty as specified is to be paid in advance.
11. The licensee shall strictly maintain timings of serving of beer to the customer between 10.00 AM and 11.30 PM.
12. The licensee is prohibited from manufacturing any of the Beers, save the ones specially instructed.
13. The licensee shall issue beer only to the visitors of the licensed premises.
14. The account of the transactions in the Microbrewery relating to issue shall be maintained in such manner as may be required by the Excise Commissioner.

15. The Licensee shall furnish any statistics relating to manufacture and the sale of Beer that may be required when called upon to do so by any Competent Authority.
16. For any breach of the rules or the conditions of the licence, the Excise Commissioner may after giving a fortnight's notice to the licensee suspend or cancel the licence. The licensee shall not be entitled to any compensation on account of such suspension or cancellation".

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[1]THE KARNATAKA EXCISE (BREWERY) (AMENDMENT) RULES, 2011

Whereas, the draft of the following rules further to amend the Karnataka Excise (Brewery) Rules, 1967 was published as required by sub-section (1) of Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), in Notification No. FD 62 EAA 2011(I), dated 2-11-2011, in Part IV-A of the Karnataka Gazette, Extraordinary No. 905, dated 2-11-2011, inviting objections and suggestions from all persons likely to be affected thereby within thirty days from the date of its publication in the Official Gazette.

And whereas, the said Gazette was made available to the public on 2nd November, 2011.

And whereas, no objections and suggestions have been received in respect of the said draft by the State Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules, namely.—

1. Title and commencement.—(1) These rules may be called the **Karnataka Excise (Brewery) (Amendment) Rules, 2011.**

(2) They shall come into force from the date of their publication in the Official Gazette.

2. Omission of Rule 24.—In the Karnataka Excise (Brewery) Rules, 1967 (hereinafter referred to as the 'said rules'), Rule 24 shall be *omitted.*

3. Amendment of Form 1.—In Form 1 appended to the said rules, under the heading "Application for the Brewery Licence", Serial Number 8 and entries relating thereto shall be *omitted.*

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1. Published in the Karnataka Gazette, Extraordinary No. 318, dated 30-4-2012, vide Notification No. FD 62 EAA 2011(I), dated 30-4-2012.

[1]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF [2][RETAIL VEND OF WINE OR FORTIFIED WINE]) RULES, 2008

(As amended by Notification Nos. FD 20 PES 2005, dated 22-6-2009 and FD 03 PES 2012(IV), dated 31-3-2012)

Whereas, the draft of the Karnataka Excise (Lease of Right of Retail Vend of Wine) Rules, 2008 was published as required by sub-section (1) of the Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), in Notification No. FD 20 PES 2005(I), Bangalore, dated 1st July, 2008, in Part IV, Section 2-C(1) of the Karnataka Gazette, Extraordinary No. 673, dated 1st July, 2008, inviting objections and suggestions from all persons likely to be affected thereby within thirty days from the date of publication of the draft in the Official Gazette.

And whereas, the said Gazette was made available to the public on 1st July, 2008.

And whereas, the objections and suggestions received within the period specified above, have been considered by the Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1965), the Government of Karnataka hereby makes the following rules, namely.—

1. Title and commencement.—(1) These rules may be called the **Karnataka Excise (Lease of the Right of [3][Retail Vend of Wine or Fortified Wine]) Rules, 2008.**

(2) These rules shall come into force from the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires.—

(1) "**Act**" means the Karnataka Excise Act, 1965;

(2) "**Form**" means a form appended to these rules;

(3) "**Fortification**" means the process of manufacturing fortified wine;

1. Published in the Karnataka Gazette, Extraordinary No. 1078, dated 27-9-2008, vide Notification No. FD 20 PES 2005(III), dated 27-9-2008.
2. Substituted for the words "Retail Vend of Wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
3. Substituted for the words "Retail Vend of Wine" by Notification No. FD 03 PES

[1][(4) "**Fortified wine**" means Wine or Fruit Wine, the alcoholic strength of which has been increased by the addition of Neutral Spirit or Rectified Spirit or pure fruit Brandy and which has alcoholic strength of not more than 16% volume by volume and fruit wine content of not less than 7% volume by volume;]

(5) "**Lease**" means the lease of the right of the retail vend of wine granted under these rules;

(6) "**Licence**" means a licence issued under these rules;

(7) "**Wine**" means the fermented juice of ripe grapes or other fruits with or without the addition of sugar or jaggery, containing self-generated alcohol, including sparkling wine but does not include fortified wine;

(8) "**Year**" means the year commencing on the first day of July and ending with the 30th day of June of the next calendar year;

(9) "**Wine tavern**" means a place for [2][retail vend of wine or fortified wine] for consumption with or without eatable.

[3][(10) "**Wine boutique**" means a place for [4][retail vend of wine or fortified wine] in sealed bottles only;]

3. Application for grant of lease.—[5][(1) [6][An application for lease of right or retail vend of wine or fortified wine] in a wine tavern or/in a wine boutique or for both shall be made to the Deputy Commissioner of the district in Form LFW-I accompanied by a treasury challan for having credited the lease amount to the Government.

(2) The Deputy Commissioner shall while granting licence under these rules have due regard to.—

(a) in case of a Wine Tavern.—

(i) the availability of rooms for serving wine along with eatables for consumptions;

(ii) adequate seating arrangements;

(iii) the provision for separate toilet with running water facilities for men and women;

1. Clause substituted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
2. Substituted for the words "retail vend of wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
3. Clause (10) inserted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
4. Substituted for the words "retail vend of wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
5. Sub-rules (1) and (2) substituted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
6. Substituted for the words "An application for lease of right of retail vend of wine" by

(b) in case of Wine Boutique.—

(i) that a minimum built up floor area of 200 sq. ft. of RCC; or

(ii) if the licence is located in any super markets, malls, multiplex *etc.*, the total floor area of such super market *etc.*, shall not be less than 15,000 sq. ft.]

(3) Where the applicant for a licence is a firm, the name and other particulars of all the partners shall be mentioned in the application and if a licence is granted to the applicant, the names of all the partners shall be entered in the licence. No additional partners shall be admitted to the firm after the granting of a licence unless the Deputy Commissioner on an application made to him in writing agrees to alter the licence, and to add the name or names of the partners in the licence.

4. Grant of lease.—On receipt of the application under Rule 3, the Deputy Commissioner after such enquiry as he deems fit, and if he is satisfied may grant the lease for the retail sale of wine in Form LFW-II.

[1][**5. Lease Amount.**—The amount for grant of lease shall be rupees one thousand for wine tavern and rupees five thousand for a wine boutique per annum].

6. Security.—The lessee shall before grant of licence furnish a sum of rupees one thousand by way of security either in cash or securities approved by the Government for the fulfillment of the conditions of the licence.

7. Licence.—(1) The Deputy Commissioner after the grant of lease under Rule 4 and on furnishing of security by applicant under Rule 6 shall issue a licence to the lessee in Form LFW-III.

(2) The licence granted under sub-rule (1), shall be subject to the conditions specified therein and valid for a year or where the licence obtained on any date after the first day of July until the 30th day of June of the next calendar year.

8. Renewal of lease.—(1) The lessee shall apply for renewal of lease in Form LFW-I to the Deputy Commissioner thirty days before the expiry of lease granted under Rule 4, accompanied by a treasury challan for having credited the prescribed lease amount.

(2) On receipt of the application under sub-rule (1), the Deputy Commissioner may renew the lease for a period of one year.

9. Renewal of licence.—On the renewal of lease under Rule 8, the Deputy Commissioner shall renew the lease in Form LFW-II and issue a licence to the lessee in Form LFW-III.

10. Occasional licence.—The Deputy Commissioner may issue an occasional licence in Form LFW-IV for [2][sale and consumption of Wine or Fortified Wine at Wine festivals/fares] conducted by the Karnataka Wine

1. Rule 5 substituted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
2. Substituted for the words "sale and consumption of Wine at Wine festivals/fares" by

Board or for consumption on such other occasion or gathering as the Deputy Commissioner may deem fit at a fee of Rs. 1000/-per day.

[1][**10-A. Sale of Wine or Fortified Wine.**—The distributor Licensee under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 may sell Wine or Fortified Wine to a person holding a licence under these rules.]

11. Repeal and savings.—Karnataka Excise (Lease of the Right of Retail Vend of Wine) Rules, 1985 are hereby repealed:

Provided that the said repeal shall not affect the previous operation of the said rules or anything duly done or suffered thereunder or affect any right, liability or obligation acquired or accrued under the said rules.

FORM LFW-I

[See Rule 3]

[2][Application for grant of lease to retail sale of wine [3][or fortified wine]]

1. Name and address of the applicant
2. If the applicant is a company/firm the name and addresses of the Directors of Company/partners of the firm
3. The location of the premises where the applicant desires to sell the wine [4][or fortified wine] with boundaries:
   [5][(a) in the wine tavern; or
   (b) in the wine boutique or both.]
4. Whether the prescribed fee amount has been paid? If so, the treasury, challan number and date for having credited the lease amount
5. Whether the following documents are enclosed?
   (a) Original Treasury Challan
   (b) Blue print of the premises/taverns in triplicate
6. Name and address of the employees if any?

Date: Signature of the applicant.

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1. Rule 10-A inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
2. Substituted for the heading "Application for grant of lease to sell wine" by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
3. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
4. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
5. Substituted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009

[1][FORM LFW-II

[See Rule 4]

Lease for the Retail Sale of Wine [2][or Fortified Wine]

1. Registration No.:
2. Name and address of the licensee:
3. Name of the employee:
4. Location of the premises/wine tavern:
   (a) Door No.:
   (b) Street.:
   (c) Location of the wine tavern/wine boutique:
   (d) City/Town/Village:

I .... the Deputy Commissioner .... District in consideration of the payment of the lease amount of Rs. 1,000 (Rupees Thousand only) in case of wine tavern and Rs. 5,000 (Rupees Five thousand only) in case of wine boutique do hereby authorise Sri .... S/o .... residing at .... to sell wine [3][or fortified wine] at premises No. .... situated in .... subject to the conditions specified in the licence Form LFW-III.

Schedule showing the boundaries of the premises/wine taverns/wine boutique.

Date: Signature of the Issuing Authority with seal.]

FORM LFW-III

[See Rule 7]

Licence for the Retail Vend of Wine [4][or Fortified Wine]

1. Register No.
2. Name of licencee
3. Name of the employee

[5][4. Place: Premises/wine tavern/wine boutique.—
   (a) Door No.

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1. Form LFW-II substituted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
2. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
3. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
4. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
5. Substituted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009